

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 16, 2000

The regular meeting of the Metropolitan Area Planning Commission was held Thursday, March 16, 2000 at 1:00 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main Street, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; Chris Carraher; Bud Hentzen; Bill Johnson; John W. McKay, Jr.; Jerry Michaelis; Susan Osborne-Howes; George Platt; Harold Warner; Ray Warren and Deanna Wheeler (late arrival). James Barfield; Bud Hentzen and Ron Marnell were not present. Staff members present were: Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Lisa Verts, Senior Planner; Barry Carroll, Associate Planner; and Karen Wolf, Recording Secretary.

1. Approval of January 19, January 24, January 27, February 3 and February 10, 2000 Comprehensive Plan and Transportation Plan meeting minutes.

GAROFALO "I don't know if we are prepared to approve these or not. I have not personally gotten through all of those minutes."

WARREN "I would like to give you some corrections. On the January 13th MAPC minutes, on page 56, about 30 percent of the way down that page, I said '*but we don't have to allow the free enterprise system*'. The word '*don't*' was not supposed to be in there. It should have said '*but we do have to*'. It would be unlikely that I would say that we don't have to acknowledge the free enterprise system."

GAROFALO "You are talking about the regular MAPC meeting? I had mentioned the others first."

WARREN "Oh, okay. Well, on the other meetings of February 10th, on Page 7, again what I was quoted as saying there I surely wouldn't do it in public. On the fourth paragraph down in the middle of the paragraph, '*as you said, Mr. Chairman, I think the County Commission spoke with*' and it should have been finality there. Spoke with finality. And then in the next paragraph, it shouldn't be '*the growth wasn't ream*', it should be *ring*. And then a little further down, in the middle of it, they again said the *growth ring*. It should have been rate. Where it says Ag zoning to growth rate. I'm sure glad to get those corrected."

CARRAHER "On that same meeting February 10, for the record, I need to have the name Carraher spelled correctly."

KROUT "Okay. These were done by another secretary."

CARRAHER "That's fine."

GAROFALO "They did pretty well with my name on the first two, but then on February 10, they wanted to stick in an 'a' in there where the first 'o' should be. I think that is all the way throughout."

WARREN "I had a number of other corrections, but they didn't have any significance."

WARNER "On the February 10 meeting, on Page 11, the word '*deceptive*' should have been divisive, under my name. It's about halfway down that paragraph."

KROUT "Okay, I found it."

GAROFALO "Are there any other corrections?"

OSBORNE-HOWES "Well, on that same date, February 10, actually on Page 5 and 6, take a look at that. You don't want me to go through each one of these. Can I just enter my corrections in the record? A lot of it is bad grammar. I know that we have someone new doing it. On Page 23, at the very bottom of the page, I could just point to the pages and have him write it down as 'write'. That is no big deal.

On Page 33, there is a question mark for the Commissioner. I think that was Commissioner Platt. I don't think I could forget that comment. At the bottom of the page there. I don't mean to speak for him, but I do remember him talking about the big red heart, agriculture. Then on Page 34, I have several corrections, but at the bottom I don't think my last word at the bottom of that page should be joking. I don't know what it was, though. On Page 36 there are two question marks for Commissioners. Obviously I didn't have anything better to do this week than to read this. I don't know who spoke, but I would think that maybe they would know. Again on Page 36, again several corrections. On Page 38, several corrections.

And then on February 3, on Page 22, I just have a couple of corrections where I don't think she caught it right. Can I, rather than go through all of that, just give them to you? And on Page 24, the same thing. Unless I have really pointed it out, these are just grammatical errors. I can just hand these over to the secretary."

GAROFALO "That is a good idea. Are there any other corrections on those minutes?"

PLATT "On the February 10, Page 8, I have given the secretary some corrections on my comments."

KROUT "Is there anything that is content that you want to talk about, or is it pretty much grammar."

PLATT "No. It's just getting the right words there."

GAROFALO "Anything else on the minutes of February 10, January 27 and February 3? I had a couple of things on the January 13 and December 16. Let's take the December 16 minutes first. On Page 111, I think Commissioner Lopez said 'Is the request for *deferral* by the applicant', rather than *referral*."

2. Approval of December 16, 1999 and January 13, 2000 MAPC minutes.

GAROFALO "And then on the January 13 minutes, on Page 31, Commissioner Warren, '*in reference to my motion*' rather than in *preference* to my motion. And then on Page 65, where it says 11, under Case No. Cu-557, I think at the end of that sentence it should probably be utility, major expansion. I am not sure."

KROUT "I think that is right. We have a definition for utility, major and utility, minor."

GAROFALO "Oh, okay."

KROUT "Minor is allowed by right and major is by Conditional Use. So that is correct."

GAROFALO "Oh, all right. That's all I had on that. Did anybody have anything else on the minutes of December 16 or January 13? Okay. Let's take a motion on the MAPC minutes of December 16, 1999 and January 13, 2000."

MOTION: That the minutes of the Metropolitan Area Planning Commission for the December 16, 1999 meeting and the January 13, 2000 meeting be approved as amended.

MCKAY moved, **CARRAHER** seconded the motion.

GAROFALO "Okay, those minutes are approved as amended, let's take then, the minutes of the Comprehensive Plan and Transportation Plan for January 27th, February 3rd and February 10. Can we have a motion for approval on those?"

MOTION: That the minutes on the Comprehensive Plan and the Transportation Plan for January 27, February 3rd and February 10, 2000 be approved as amended.

WARREN moved **CARRAHER** seconded the motion, and it carried unanimously. (10-0).

KROUT "Which ones have not been approved?"

GAROFALO "I guess January 19 and January 24. The three hearings haven't been approved."

KROUT "Do you want to see that in a version with all the corrections that have been submitted from the different parties and review it again, or will you just let us make the changes that have been suggested?"

WARREN "I think that would be all right."

GAROFALO "Are we prepared to approve those? I will be honest, I did not have a chance to look at all of that stuff."

PLATT "Is there any way we can approve them as a transcript of the meeting without being more specific? There is no way we can verify what people said."

KROUT "Do you think there are further changes that need to be made?"

PLATT "I don't think there are, but just in terms of saying there are probably a lot of errors on them. Just say that we approve these as transcriptions of the meeting."

KROUT "And recognizing that there may be some errors in them."

MOTION: That the Metropolitan Area Planning Commission approve the minutes of the public hearings on the Comprehensive Plan and Transportation Plan as transcriptions, including all recommended changes, and recognizing that there may be errors in the transcription process.

PLATT moved, **MCKAY** seconded the motion, and it carried unanimously (10-0).

Wheeler arrived at the meeting at 1:25 p.m.

GAROFALO "Okay, Marvin is going to talk to us about the session he had with the City Council people and the County Commissioners. We did send a letter that I signed to the Mayor and to the County Manager, requesting that we have a meeting with them. They, in turn, got together, and Marvin will tell us about that."

KROUT "Over the last week, the City Council members and County Commissions have been meeting together, discussing what is the best way to conform with the Comprehensive Plan. I have also had discussions with a number of the City Council members and County Commissioners and they have asked me to lay out this proposed process for your consideration. This is the way that they would to proceed on the Comprehensive Plan. Let me read this because I want to make sure that I do get it right.

The City Council and County Commission have taken notice of the strong public interest and sometimes diversioned views on the important subject of how the community should grow and develop in the future to reach its highest potentials. They understand that planning is a continuing process and they want to encourage discussion, and they want to encourage discussion on these issues to continue, but in a more positive setting with a genuine interchange of ideas and in a time-frame that allows thorough examination.

The governing bodies also appreciate the many hours that the MAPC has put into the process to date in an effort to develop sound recommendations. And they also recognize the need to bring this process to some conclusion in order to comply with federal mandates. Therefore, they have agreed on the following process.

- 1) The MAPC is requested to complete its deliberations over the next two or three weeks and vote on a recommended set of plan amendments.
- 2) The City Council and County Commission intends to study the MAPC recommendations along with the extensive set of minutes from the three public hearings in January and other comments on the plan that have been received over the past two months. The two governing bodies do not intend to hold additional hearings on the plan at this time since the MAPC is charged by statute and local policy with that responsibility.
- 3) The two governing bodies intend to hold an enbanc meeting in late April or early May to consider the MAPC recommendations and vote on plan amendments. An expeditious adoption of plan amendments will maintain compliance with federal mandates. The long-range transportation plan is supposed to be updated every five years and have a time horizon exceeding 20 years. As of January of this year, the community was not in compliance with this criteria. That will ensure that the community remains eligible for federal transportation grants, which average over \$30 million per year.
- 4) The two governing bodies will also be working on the composition of a special task force of 25-30 members, which would be appointed shortly after adoption of planned amendments. The task force will be asked to attempt to reconcile some of the more significant and contentious issues that have merged during the planning process. The task force will be comprised of a cross section of stakeholders, including representatives of the MAPC, of the elected bodies of business and development interests and neighborhood environmental groups. The task force will be led by a neutral professional facilitator with MAPD providing background information as needed. The task force should be able to undertake the more thorough examination of issues if not needing to operate under the time pressure of bringing the plan into compliance with federal mandates. The task force will submit a report with their recommendations to the MAPC and the two governing bodies. There is no deadline established for that report. Those recommendations can then be considered for further plan amendments.

That is the process that the governing bodies would like to undertake to reach a conclusion. I know that a number of Planning Commissioners feel that before you put a lot of time into it, and you would like to draw a line somewhere. What they are saying is that planning is a continuing process, but in order to comply with the federal mandates, that maybe this is a good time to bring this to some conclusion, however interim that plan may be. They recognize that there needs to be more discussion, but that discussion should not be under the pressure of time, and that all parties need to be part of that discussion. That is the way they would like for you to proceed. I guess we would like some comments. We would hope that the Planning Commission could set a workshop as early as next Thursday afternoon."

MCKAY "Unless there are a bunch of major changes, which I doubt if there is with this organization, I am ready to move that we send it on to the City Council and County Commission. I would just kind of like to have kind of a test for the commissions and hear from the rest of them about what their feelings are."

WARREN "Is that a motion?"

MCKAY "No. It is simply a statement and I would just like to have the consensus of the balance of the Commissioners."

KROUT "Just to clarify, it would include a sort of straw vote on changes we have already made and adding an objective on agricultural activities and changing the rental inspection program language, is that right?"

MCKAY "Yes."

KROUT "I think those are the two changes that you have already made by consensus."

LOPEZ "I kind of agree with that. Just a comment. This Planning Commission has been involved with this now for well over 18 months going on 24. We have held a considerable amount of public meetings and have received quite a bit of feedback that has directed us to this point in time. I am in the same camp as Commissioner McKay."

WARREN "I would recommend, I mean we all have comments we could make on this, and I think we have probably already made those comments a number of times, so I would recommend that we just take a straw vote right now to see if we are ready to send this forward."

GAROFALO "I don't know that we need to do that at this point."

WARREN "Just ask if there are objections to sending it forward, then."

JOHNSON "Well, I think that after hearing what Marvin has said, I think we were kind of thinking that we were going to get back together with the City Council and the County Commissioners before we had to do this. Since we've kind of got a different direction now that they want us to take, I guess I am in favor of sending it on to them. Let's give them a couple of extra weeks to work on it."

PLATT "I am confused as to whether or not the proposal is, if you send it forward, specifying that by doing that, we either approve or disapprove it, or disapprove it, or does sending it forward mean that we approve of it?"

MCKAY "We would vote, I would think."

KROUT "I think John says that he is ready to make a motion to approve the plan."

PLATT "I didn't hear that."

MCKAY "George, I just simply said that I would like to hear the comment of the Commission because if the consensus of the comments are 'no, we are not ready to move forward', then I won't say anything. We will have another meeting. But if the consensus is that they are ready, I will make a motion to approve it and send it on to the two governing bodies."

PLATT "I just wondered if you were ready to make a motion or not."

MCKAY "No, I just wanted conversation before a motion was made. That's all."

MOTION: That the Metropolitan Area Planning Commission approve the Comprehensive Plan as amended and forward it on to the City Council and County Commission.

MCKAY moved, **LOPEZ** seconded the motion.

VOTE ON THE MOTION: The motion carried with 8 votes in favor (Michaelis, Wheeler, Johnson, Warren, Warner, Carraher, Lopez, and McKay) and 3 in opposition (Platt, Garofalo, Osborne-Howes). Marnell, Barfield and Hentzen were not present.

KROUT "It requires 8 votes to approve the Comprehensive Plan, so we will forward this on to the governing body and do the clean-ups that are necessary."

FRANK GAROFALO, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

3. Consideration of Subdivision Committee recommendations

GAROFALO "Since we have pulled so many of these, it might be easier if we just had a motion to approve one at a time. It gets so confusing."

3/1. S/D 00-08 - Final Plat of WOODLAKE 2ND ADDITION, located on the northeast and northwest corner of Douglas Avenue and Sheridan.

- A. The Applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. City Engineering needs to comment on the need for any other guarantees or easements. The 20-ft utility easement along the west property line needs to be labeled. The utility easement between Lots 8 and 9, Block 1 needs to be increased from 16 to 20 feet.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A guarantee is required.
- D. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- E. The Applicant needs to request a CUP adjustment, as the proposed access controls do not correspond with those imposed by the CUP. A CUP adjustment may also be needed for the parcel boundaries.
- F. The Applicant shall guarantee the paving of the proposed interior streets. The guarantee shall also provide for sidewalks on one side of the streets.
- G. City Fire Department should comment on the plat's street names. First Street has been renamed 1st Street in accordance with City Fire Department's request.
- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-61) and its special conditions for development on this property.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: That the Planning Commission recommend to the governing body that the request be approved.

CARRAHER moved, **MCKAY** seconded the motion, and it carried with 10 votes in favor. No opposition. Michaelis abstained.

Item 3/2 taken out of order

- 3/3. S/D 00-10 - Final Plat of AUBURN HILLS 13TH ADDITION, located on the west side of 135th Street West, south of Maple.**
- A. The applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
 - C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required.
 - D. If this site develops before Auburn Hills 12th, a temporary turnaround will need to be provided at the terminus of Onewood to the west and referenced in the plat's text on the final plat.
 - E. The applicant shall guarantee the paving of the interior streets. This guarantee shall also provide for sidewalks on one side of Onewood.
 - F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
 - G. City Fire Department shall comment on the acceptability of the plat's street names. The street names are approved.
 - H. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
 - I. A definite location needs to be denoted for the utility easement in the northeast portion of Reserve A.
 - J. A definite location needs to be denoted for the utility easement northeast of Lot 27, Block A, in Reserve A.
 - K. The centerline of Dogleg Street needs to be located at Onewood Street.
 - L. Bearings needs to be added for the north line of Lot 1, Block B.
 - M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
 - N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
 - P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MCKAY "Mr. Chair, I have a conflict of interest on this one and will step down."

MOTION: That the Planning Commission recommend to the governing body that the request be approved.

WARREN moved, **JOHNSON** seconded the motion, and it carried with 10 votes in favor. There was no opposition. McKay abstained.

3/4. SUB 2000-03 - One-Step final plat of WILLOW PLACE ADDITION, located on the south side of 45th Street north, east of Rock Road.

- A. The Applicant shall guarantee extension of sanitary sewer and City water. City Engineering needs to comment on the need for additional guarantees or easements.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A guarantee is required.
- D. County Engineering requests the submission of a drainage plan for review.
- E. The plat shall dedicate complete access control along the site's frontage to 45th St. North. The access controls shall be referenced in the plat's text.
- F. The Applicant shall provide a guarantee for the paving of the internal streets.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. City Fire Department needs to comment on the acceptability of the street names. Willowplace should be revised to 44th St. North.
- I. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- J. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- K. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.

- L. The building setback lines may be eliminated from the area located within the pipeline easement.
- M. Block numbers need to be designated.
- N. The bearing along the north section needs to be corrected.
- O. Since this plat is not a replat, the surveyor's text should not include reference to KSA 12-512(b).
- P. Traffic Engineering should comment on the need for improvements to 45th St. North. No improvements are required. The location of Spyglass shall be relocated eastward between Lots 1 and 2, to increase the distance from the railroad.
- Q. City Engineering requests the addition of radii at the intersections of the internal streets.
- R. Notice of Protective Overlay document indicating the Protective Overlay has been filed with the MAPD shall be submitted.
- S. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within thirty (30) days after approval by the City council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- CC. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MICHAELIS "I have a conflict of interest on this one and I won't be voting."

MOTION: That the Planning Commission recommend to the governing body that the request be approved.

LOPEZ moved, **WARREN** seconded the motion, and it carried with no opposition. Michaelis abstained.

MOTION: That the Planning Commission recommend to the governing body that subdivision agenda items 3/5 and 3/6 be approved.

MCKAY moved, **JOHNSON** seconded the motion, and it carried unanimously.

- 3/5. SUB 2000-01** - One-step final plat of DOUG ECK FIRST ADDITION, located on the east side of 231st Street West, north of 45th Street North.
- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. Standard soil testing is required.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
 - C. County Engineering needs to comment on the status of the applicant's drainage plan. County Engineering requests information on potential terrace on east side of the plat and waterway to the north. A letter from the adjoining property owner should also be obtained regarding removal of the terrace.
 - D. County Engineering needs to comment on the access controls. The plat proposes one access opening along 231st St. West. The access controls are approved.
 - E. If platted, the building setback may be reduced to 30 feet.
 - F. The utility easement along the north property line should be widened appropriately to protect existing tree rows from damage. The applicant will relocate the utility easement.
 - G. MAPD requests a 35-ft contingent dedication of right-of-way along the south property line to provide for potential street connections to adjoining undeveloped property.
 - H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
 - I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
 - K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
 - L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
 - M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
 - N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
 - O. Perimeter closure computations shall be submitted with the final plat tracing.
 - P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
 - Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
 - R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
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- 3/6. D-1785** - Dedication of a Utility Easement from Team Players, LLC, and Rew, LLC, for property generally located on the west side of Rock Road, south of 37th Street North.

OWNER/APPLICANT: Team Players, LLC, and Rew, LLC., 128 S. Dellrose, Wichita, KS 67218

LEGAL DESCRIPTION: That part of Lot 1, Block 1, Killarney Plaza First Addition, Wichita, Sedgwick County, Kansas, described as commencing at the northwest corner of Lot 3, in said Block 1; thence S 89°18'12" W, along the extended north line of said Lot 3, 34.5 feet for a place of beginning; thence N 01°5'20" W, parallel with the east line of said Lot 1, 136.30 feet; thence N 89° 18'12" E, 18.5 feet; thence N 01°05'20" W, 10 feet; thence S 89°18'12" W, 18.5 feet; thence N 01° 05' 20" W 15 feet; thence S 89°18'12"W, 21.16 feet; thence S 00° 41'48" E, 87.26 feet; thence N 89°18'12" E, 10.26 feet; thence S 01°05'20" E, 74.04 feet; thence N 89°18'12" E, 11.5 feet to the place of beginning.

PURPOSE OF DEDICATION: As a requirement of a Lot Split (L/S-1038), this Utility Easement is being dedicated to allow construction and maintenance of public utilities.

Planning Staff recommends the granting of this dedication be accepted.

Item taken out of order:

3/2. S/D 00-09 - Final Plat of AUBURN HILLS 12TH ADDITION, located west of 135th Street West, South side of Maple.

- A. The applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. Drainage easements need to be included on the final plat tracing.
- D. A temporary turnaround will need to be provided at the western terminus of Onewood.
- E. The applicant shall guarantee the paving of the interior streets, Valley Hi Road and the portion of Decker and Taft which adjoins the lots in this plat.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. City Fire Department should comment on the acceptability of the plat's street names. Decker Drive should be Decker Street. Nineiron Place should be Nineiron Court.
- I. The Applicant shall dedicate an additional 6 feet of right of way along Valley Hi Road in order to activate the contingent right-of-way dedication along the northern half of the street.
- J. To provide an additional point of access for the lots located on Onewood Place, City Fire Department requests an emergency access easement to connect Onewood Place with Valley Hi Road or Decker.
- K. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat consists of fifteen lots that contain under 6,000 sq. ft., the minimum lot standard of the SF-6 district. The Cluster Development option in the Subdivision Regulations require that any reduction in lot size is offset by the provision of permanent open space. The Applicant has submitted a table indicating that the amount of open space provided in the Reserves (102,533 sq. ft.) exceeds the cumulative total reduction in lot area (8,513 sq. ft.) in conformance with the Cluster Development provisions.

- O. In addition to the standard restrictive covenant required per Item G above, the Subdivision regulations require the submittal of a restrictive covenant addressing the Reserves associated with the clustering development. The covenant shall ensure that the open space will not be further subdivided in the future, that the use of open space will continue in perpetuity, and that the common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.
- P. The definite location of the gas easement needs to be denoted for Lot 47, Block D.
- Q. Dimensions need to be added for the following: Between lots 8 and 9, Block A; the north line of Lots 12 and 13, Block A; west line of Lot 14, Block A; and the south line of Lot 7, Block C.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- AA. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MCKAY "Mr. Chair, I have a conflict of interest on this and will step down from the bench on this."

GAROFALO "Okay. Commissioner McKay is abstaining."

NEIL STRAHL, Planning staff, "This case is located west of 135th Street West on the south side of Maple. It encompasses 36 acres, 134 lots zoned 'SF-6' single-family residential. The southern portion of the plat will connect with Auburn Hills 13th, which is one of the plats you just approved, to the east and will access from 135th Street West, and the northern portion of the plat will access from Maple Street to the north. The plat encompasses an existing private street, Valley Hi Road, located right here (indicating). There are currently two existing single-family homes on the northern portion of that private street, and there is a contingent street dedication for Valley Hi Road.

This plat includes a 35-foot dedication of right-of-way of the southern portion of Valley Hi Road and that will trigger the dedication of that contingent right-of-way. The two existing property owners on the northern portion of that street have had discussions with the developer regarding their participation in the paving petition for Valley Hi Road. Nothing has been determined at this point, however, that is a City Council issue and the issue will have to be resolved before the plat is approved by the City Council.

All of the other issues have been approved at the Subdivision Committee last week. Are there any questions for staff?"

WARREN "Is that street that they had requested extend on up? See that little street that stubs out? Right there. Did that get resolved?"

STRAHL "Right. There is going to be an emergency access easement to make a connection between there and the north so the Fire Department will have two points of access."

GAROFALO "Are there any other questions of Neil? Is the applicant here, or whoever wishes to speak on this?"

RUSS EWY "I am with the Baughman Company, agent for the applicant. I would be more than happy to answer any questions that staff or this Commission has."

GAROFALO "To be honest with you, I am not sure what the problem is."

KROUT "We have some speakers here."

GAROFALO "Okay. We will hear from them."

LOPEZ "I have a question. Neil made the comment that the issue on Valley Hi Road with the property owners is a City Council decision. What does that mean?"

EWY "The acceptance of that paving petition is a City Council issue. The petition in question hasn't been written yet, but on two other occasions, the Subdivision Committee has had it quite clear that the equity issue will be the focus of that petition and as the applicant stated before, they are working with and will work to develop a fair petition on the paving of that street."

GAROFALO "Are there any other questions? Okay, then we will hear from whoever else wants to speak on this. Sir, would you please state your name and address?"

TOM FARMER "My wife and I own 14126 Valley Hi Road. We are one of the lot owners that you have been talking about to the north of Valley Hi Road. We request that you not approve this final plat. There was a contingent that was drafted and approved on May 27, 1975. There were two parts that would trigger the contingent dedication. One is the allocation of 35 foot by the adjoining land owner and after several sessions, that has finally been documented on the plat, but there was another condition that also is required to trigger this contingent dedication, and that is that the street, the said right-of-way is going to be needed by the public. There has to be a public need.

In our opinion, this road is not a section line road. It is not critical to the public. We believe it is being targeted at the sole discretion of the developers. It is not for public need. It might be for a developer's interest. The previous plat, of which the plat you are looking at now is a revision; the previous one did not require this road, so we ask that you ask the developers why they revised the plat to take the road?

We have dealt with this issue for two years and we are very frustrated. If you do approve this, we ask that you put a condition on it. That is that you separate the Odell White Addition from the improvement district of Auburn Hills. Exclude us. If you take that road, right now it is a private road. We own it. If you convert it to public use, exclude our addition from Auburn Hills development as part of that improvement district. The reason we are asking you to do that is that we will not benefit from that road being paved. We like it the way it is right now. We have been there for 13 years, it is fine; it is a good road, but it probably won't stand up against the density of traffic that you can see across that road, facing our property. We don't really think we are going to benefit from this at all. We get out, egress and ingress to our property just fine. We feel though, that our right to a quiet, peaceful enjoyment of our property is being jeopardized. Look across the streets from our lots. Look at those 16 lots facing our lots and ask yourself how you would like to be in that kind of a situation, where you moved out into the country, at that point, and we don't say development shouldn't happen, but we didn't expect a development of this density to happen across the street from us. We feel that our land values are going to go down. We have talked to several realtors who have told us this will happen.

We are also very concerned, and we know that you are not going to deal with the assessment on this, but we are looking at assessments for the paving, assessments for the water, and assessments for the sewer. For us, just a one-lot owner, that is going to be over \$100,000, our share, if we get taxed on the footage of this thing. That will probably drive us out of our homes. We won't be able to afford it. We have been told by the developer that we can 'sell it, subdivide it, don't worry about it'. We have a lot of sweat equity in our property. We want to stay. We want to be separated from the Auburn Hills Improvement District. Don't include us in this, if you approve this. That is what we ask. Are there any questions?"

GAROFALO "I have one question. I am looking at this map here and I can't tell, is City View a street?"

FARMER "Yes, it is."

GAROFALO "Is it currently in there now?"

FARMER "Yes. It is a dirt road."

GAROFALO "A dirt road. But it goes up to Maple?"

FARMER "Actually, it starts around, and as it goes through Maple Hill, it doesn't go directly to Maple. There is another side street that adjoins it that it takes off from. "

GAROFALO "Do people use that road?"

FARMER "Oh, yeah."

GAROFALO "So, theoretically, this new road would connect with it? Is that correct?"

FARMER "Yes. It would connect with City View, and then on the other side of the properties there going east, that Decker Drive, that is a brand-new road that the developer is proposing there, which we are also concerned about because of the potential assessed value against us for that part of that road."

GAROFALO "How do you get in and out of your property?"

FARMER "From my driveway, we go onto Valley Hi Road and then head west to City View. From City View we go ahead and head north out into the Maple Hill area, and we either go to Goddard or back to Wichita on Maple."

GAROFALO "So currently, you use the road that is there now?"

FARMER "Yeah, it is a private drive."

GAROFALO "Are there any other questions? Nothing? Is there anyone else to speak on this issue? Okay, then I guess we need to give the applicant a couple of minutes of rebuttal."

EWY "I think I would address the gentleman's concerns by stating that obviously that instrument was placed there anticipating such use. It just happens to be this development at this time that is triggering that contingent street dedication."

As far as the petition goes and the exclusion or inclusion of this property to whatever magnitude, like I mentioned, we will follow the statutory guidelines preparing that petition, and with the obvious direction of this body and the Subdivision Committee that we do it in an equitable manner.

The benefit to this property may not be seen by these two lots and their current configuration, but it is obvious that that these two lots could further subdivide or lot split in the future, or be replatted into urban sized lots in the future, which would have a direct benefit of a paved Valley Hi Road. So, as I said, this issue is an ongoing situation that we think we will be able to satisfy both parties. I will answer any questions."

GAROFALO "Russ, does the Fire Department say anything about this in particular? Maybe some of the Subdivision Committee people could answer."

MICHAELIS "No, they didn't have any concern. They were okay once they got that other secondary access."

GAROFALO "Do you mean on Decker?"

MICHAELIS "Yeah, from Decker down to that little stub street that you see there."

WHEELER "If I understand this, the temporary street is an emergency access that will tie into the street that the homeowner is addressing."

EWY "The access easement that the Fire Department requested we provide would run up through this stub street and the easement, not a through street but the easement would connect up with Valley Hi Road in this manner (indicating)."

WHEELER "Okay."

EWY "The way our road system would operate under this plat is that Decker wanted be able to come through, and down Decker to Valley Hi Road and then back up City View. Basically increasing the circulation ability of that property and access back to those homes as well as the 16 lots that we are proposing."

GAROFALO "Are there any other questions? Okay, thanks, Russ. Is there anyone else to speak on this item? If not, we will take it back to the Commission for discussion. What is the pleasure?"

WARREN "Well, as a member of that Subdivision Committee, and we have looked at this two different times now, and of course we had the benefit of all City staff and all of their comments, we certainly were very sensitive to the concerns of these folks that are here today and one of the neighbors that is not here today, but the applicant has met every condition of our Subdivision Regulations, whereas we don't get in to the spreading of specials or the petitions of streets, we couldn't really consider that as a condition of approval or of not approving this plat."

We did hear the developer get up and make some quasi commitments, at least, to give relief to these people in some manner, which would be an agreement, and he did commit himself to what was too much, at least. But based on the fact that they have met every condition of the Subdivision Regulations, I am going to move that the plat be approved."

MOTION: That the Planning Commission recommend to the governing body that the request be approved subject to staff comments."

WARREN moved, **LOPEZ** seconded the motion, and it carried with 10 votes in favor. There was no opposition. McKay abstained.

DALE MILLER, Planning staff "These are public hearings, but unless there is someone here to speak to any one of them, staff does not have any comments. On Item 4/5, V-2219 has been withdrawn by the applicant."

WHEELER "I need to abstain from items 4/2 and 4/3 due to the potential appearance of a conflict of interest."

GAROFALO "Okay. Is there anyone here to speak on vacation items 4/1 through 4/7? Seeing no one, I will bring it back to the Commission."

MOTION: That the Metropolitan Area Planning Commission recommend to the governing body that the requests be approved.

JOHNSON moved, **MICHAELIS** seconded the motion and it carried unanimously. Wheeler abstained.

4/1. V-2215 - Request to vacate a portion of a 25-foot platted street-side building setback, located Northwest corner of Seneca and Pawnee (2361 S. Seneca).

LEGAL DESCRIPTION: The west 5 feet of the east 25-foot platted setback adjacent to Seneca on Lot 1, Madden Addition to Wichita, Sedgwick County, Kansas.

The applicant is requesting to vacate 5 feet of a platted 25-foot street-side building setback. The applicant wishes to construct a building for his furniture rental business. The remaining setback along Seneca would be 20 feet and within the guidelines set forth by the Unified Zoning Code for the "LC" Limited Commercial District.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 22, 2000, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described building setback, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of a street side building setback described in the petition should be approved.

The Subdivision Committee recommends approval.

4/2. V-2216 - Request to vacate a 5-foot access easement (Associated with V-2217), located northeast of 135th Street West and Maple Street.

LEGAL DESCRIPTION: The west 5 feet of Lot 11, Block 4, Maple Dunes Addition to Wichita, Sedgwick County, Kansas, EXCEPT the south 35 feet thereof.

The applicant is requesting to vacate a 5-foot access easement on vacant property as part of a lot split on the Maple Dunes Plat. A substitute access easement was submitted with the application.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 22, 2000, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described access easement, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the access easement described in the petition should be approved subject to the applicant filing a replacement access easement.

The Subdivision Committee recommends approval subject to the applicant filing a replacement access easement.

- 4/3. V-2217** - Request to vacate a 10-foot Utility Easement (Associated with V-2216), located on the northeast of 135th Street West and Maple Street.

LEGAL DESCRIPTION: Ten feet centered on the common lot line of Lots 15 & 16, Block 4, Maple Dunes Addition to Wichita, Sedgwick County, Kansas

The applicant is requesting to vacate a 10-foot utility easement on vacant property as part of a lot split on the Maple Dunes Plat. A substitute utility easement was submitted with the application.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 22, 2000, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described utility easement, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- C. Therefore, the vacation of a portion of the access easement described in the petition should be approved subject to the applicant filing a replacement utility easement.

The Subdivision Committee recommends approval subject to the applicant filing a replacement utility easement.

- 4/4. V-2218** - Request to vacate a deed restriction line, located on the west side of Rock Road between 21st street North and 29th Street North (2525 North Rock Road).

LEGAL DESCRIPTION: Deed restriction line as platted in Lot 11, Block 4 Sycamore Village 3rd Addition to Wichita, Sedgwick County, Kansas

The applicant is requesting to vacate a platted deed restriction line for the future development of a church. Required building setbacks per the Unified Zoning Code and 10-foot utility easement will remain in place.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 22, 2000, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described deed restriction line, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of deed restriction line described in the petition should be approved.

The Subdivision Committee recommends approval.

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- 4/6. **V-2220** - Request to vacate a portion of a platted utility easement, located north of 31st Street South on the west side of Hillside.

LEGAL DESCRIPTION: The north 15 feet of the 80-foot utility easement on Lot 2, Block A, Hillside Heights Addition, Wichita, Sedgwick County, Kansas.

The applicant is requesting to vacate 15 feet of an 80-foot platted utility easement. The applicant wishes to develop this site for retail use.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 22, 2000, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described utility easement, and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the utility easement described in the petition should be approved subject to the following:
- a) The applicant shall verify the location of the existing sewer manhole center relative to the north property line and the depth of the existing sewer.

The Subdivision Committee recommends approval subject to the following:

- a) The applicant shall verify the location of the existing sewer manhole center relative to the north property line and the depth of the existing sewer.

- 4/7. **V-2221** - Request to vacate a 20-foot sanitary sewer easement, located south of Kellogg and west of 111th Street West.

Legal Description: A 20 foot sanitary sewer easement lying in the NE 1/4 of the NW 1/4 of Sec. 31, Twp. 27-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, with a line 10 feet each side of the following described centerline: Commencing at the SW corner of Lot 1, Block A, Blasi Park, Wichita, Sedgwick County, Kansas; thence east along the south line of said Lot 1, 478.02 feet; thence at an angle of 118°52'47" to the left, 22.84 feet for a point of beginning; thence continuing along the last described course, as extended northwesterly, 47.15 feet; thence at an angle of 132°01'48" to the right, 225.44 feet said point being 10 feet north of the south line of said Lot 1; thence easterly parallel with the and 10 feet normally distant north of the south line of said Lot 1, 403.60 feet; thence at an angle of 67°42'42" to the left, 435.10 feet a point 2.04 feet west and 77.05 feet north of the NE corner of said Lot 1, and there ending.

The applicant is requesting to vacate a 20-foot sanitary sewer easement. This easement was platted to cover an existing private sewer in anticipation of connecting to the city public sewer system. Since that time the applicant has decided to retain that sewer line as a private line.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommended to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time February 22, 2000, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described sanitary sewer easement, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of a 20-foot sanitary sewer easement as described in the petition should be approved.

The Subdivision Committee recommends approval.

ZONING:

5a. **Case No. Z-3340** – William E. Lusk, Jr., (owner); Baughman Company, P.A. c/o Terry Smythe (agent) request zone change from “SF-6” Single-Family to “OW” Office Warehouse; “LC” Limited Commercial; “GO” General Office; “NR” Neighborhood Retail; and “MF-29” Multi-Family Residential; and

5b. **Case No. DP-248** – William E. Lusk, Jr., (Owner); Baughman Company, P.A. c/o Terry Smythe (agent) request the creation of the Meadowland C.U.P. on property described as:

The SW 1/4 of Sec. 23, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, EXCEPT Kansas Turnpike Authority right-of-way (Condemnation Case A-54126), and EXCEPT K-96 Bypass right-of-way (Condemnation Case 91C-806), further designated at Tract R221, Tract R225, Tract R250, and Tract R303, and EXCEPT U.S. Highway 54/K-96 Highway, all being subject to road rights-of-way of record, TOGETHER with the SE 1/4 of said Sec. 23, EXCEPT Kansas Turnpike Authority right-of-way (Condemnation Case A-54126), and EXCEPT K-96 Bypass right-of-way (Condemnation Case 91C-806), further designated as Tract R223 and Tract R302, and EXCEPT U.S. Highway 54/K-96 Highway, and EXCEPT a tract in said SE 1/4 described as follows: Beginning at the NE corner of said SE 1/4; thence west along the north line of said SE 1/4 to the intersection with the easterly line of said K-96 Bypass right-of-way; thence southeasterly along the easterly line of said K-96 Bypass right-of-way, 302.66 feet to a deflection corner in said easterly line; thence southerly along the easterly line of said K-96 Bypass right-of-way and as extended south, 575.00 feet; thence southeasterly, 290.00 feet, more or less, to a point 1090.00 feet normally distant south of the north line of said SE 1/4; thence east parallel with the north line of said SE 1/4, 1850.00 feet, more or less, to a point 360.00 feet normally distant west of the east line of said SE 1/4; thence south parallel with the east line of said SE 1/4, 350.00 feet, more or less, to a point 1440.00 feet normally distant south of the north line of said SE 1/4; thence east parallel with the north line of said SE 1/4, 360.00 feet to a point on the east line of said SE 1/4; thence north along the east line of said SE 1/4, 1440.00 feet to the point of beginning, all being subject to road rights-of-way of record, TOGETHER with a tract in the NW 1/4 of said Sec. 23, described as commencing at the NW corner of said NW 1/4; thence S00°49'24"E, along the west line of said NW 1/4, 1611.91 feet for a place of beginning; thence N89°10'36"E, 50 feet; thence N00°49'24"W, 181.91 feet to a point on the right-of-way line of the K-96 Bypass as condemned in Case No. 91C-768; thence N89°10'36"E, along said right-of-way line, 270 feet; thence S45°49'24"E, along said right-of-way line, 42.43 feet; thence S03°22'13"E, along said right-of-way line, 341.48 feet; thence S37°26'53"E, along said right-of-way line, 765.57 feet; thence S21°12'18"E, along said right-of-way line, 255.97 feet to the south line of said NW 1/4; thence S88°44'32"W, along the south line of said NW 1/4, 911.06 feet to the SW corner of said NW 1/4; thence N00°49'24"W, along the west line of said NW 1/4, 1050.50 feet to the place of beginning, EXCEPT the west 50 feet thereof for the right-of-way for 127th Street East. Generally located on the north side of Kellogg (US54) from 127th Street East to 143rd Street East.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: Meadowland C.U.P. is a request for a large development spanning the area along the north side of Kellogg from 127th Street East to 143rd Street East. The application area extends northward from Kellogg for a depth of three-fourths mile on the western side of K-96 and one-fourth mile on the eastern side of K-96. Three major transportation corridors travel through the application area and are key factors affecting the types of land uses suitable for the area. These transportation corridors are K-96 and the Kansas Turnpike, both of which have exits along the property, and Kellogg (US 54) along the southern edge of the tract.

The proposed layout of Meadowland capitalizes on major transportation corridors and land use features to define the different uses proposed within the development. The land on the western side of K-96 would be developed as an office-warehouse district, with some additional highway-oriented commercial uses based on proximity to the K-96 and Kansas Turnpike exits. East of K-96, there are three distinct areas. The triangular area between K-96, Kellogg, and Spring Branch Reserve Area is designed for auto-related and highway-oriented commercial uses. It is accessed via a Kellogg frontage road from 143rd Street East. The commercial and office activities along 143rd Street East are seen as a potential location for local-serving retail and service uses for the growing residential population within one to two miles of the site. It is separated from 143rd by a 100-foot landscape buffer, has single family residential to the north, and the creek to the west. Finally, an area for multi-family development is located in the interior of the site, with good access to the large reserve areas. Potentially, there could be walking paths connecting the apartments to local-serving retail and enjoying the natural wooded areas to be retained in the reserve area. Further, it would serve as a buffer to the proposed single family development north of the C.U.P., also owned by the applicant.

General characteristics proposed by the C.U.P. include architectural control of the parcels, with predominately earth-tones, and coordination of lighting fixtures within each land use grouping. Additionally, lighting fixtures would be limited to 24 feet in height, be shielded to direct lighting in a downward direction, and extensive use of backlit canopies and neon or fluorescent

tube lighting on buildings would not be permitted. Signage restrictions would limit all free-standing signs to monument signs no more than 20 feet in height, eliminate flashing and moving signs, except for time and temperature or other public service announcements, prohibit signs on the rear of buildings, limit window displays to no more than 25 percent of the window area, and prohibit portable and off-site signs. Heights vary between 35 feet for parcels along 143rd, to 45 feet for three interior "LC" parcels, and the "MF-29" and "OW" parcels, and 60 feet for Parcel 17 and the parcels between K-96, Kellogg, and the creek.

Nearly 20 percent of the total site area is set aside as a reserve for the Spring Branch Tributary #4 and surrounding natural areas. Additionally, a 100-foot strip is provided along 143rd Street East as a landscape/buffer between the proposed local-serving retail/commercial area and single-family development to the east.

The surrounding area consists of single-family areas and vacant tracts. East of 143rd is a vacant tract at the intersection with Kellogg and Park East Subdivision. North of the application is owned by the applicant and intended for single-family use. Other uses to the north include Bridgefield Addition (single-family) being developed along Central and K-96, a large estate along Central, a church site along 143rd, and Bridgefield II Addition, which has been platted but not developed. Springdale Lakes Subdivision is located south of Kellogg to the southeast of the proposed development. KDOT has a maintenance facility southwest of the subject tract. The area to the west between Kellogg and Douglas is currently vacant and being offered for commercial development. The area north of Douglas and west of 127th, Gilders Gardens, is developed with large lot residential uses. However, the corner at Central and 127th was recently approved as a small commercial C.U.P. Overall, the area is transitioning from agricultural and older suburban residential areas to urban development. The new subdivisions being developed in the vicinity, such as Bridgefield, are at typical residential densities of two to three dwelling units per acre rather than the large lot residential typical in the past.

To date, although there has been a substantial amount of residential development in the vicinity, it has not been accompanied by local serving retail uses such as grocery stores, drug stores, etc.

Because the proposed type of development and transportation access issues differ significantly for the application area on either side of K-96, the areas will be discussed separately.

127th Street East

The application area west of K-96 is comprised of two development parcels that are separated by a six-acre reserve for the Spring Branch Tributary #4. The area lying north of the reserve is 24.40 acres; the area to the south is 12.25 acres. The applicant has proposed the property be developed as "OW" Office Warehouse district, but with the addition of the following "GC" General Commercial uses: car wash; convenience store; funeral home; hotel/motel, medical offices; recreation, indoor; recreation, outdoor; restaurants; and service station. This mix of commercial uses could be viewed as mostly auto-related commercial uses typically located near major highway interchanges, plus the recreation and funeral home uses. Office warehouse uses would benefit from the large parcels that offer good accessibility to the highway network.

Because the applicant has requested to add those "GC" uses listed previously, the property would need to be zoned "GC", which is listed in the Unified Zoning Code as a more restrictive zoning district than "OW". However, "OW" offers some different site development standards than "GC" that encourage a development pattern more suited for large office/warehouse types of uses. Therefore, the applicant has requested that the property be zoned "OW" plus those "GC" uses specifically listed previously. Site development standards would be per the "OW" district.

143rd Street East

The proposed development east of K-96 differs from that to the west by its scope and the constraints imposed by the transportation network. As originally proposed, the development would have allowed approximately 1,108,000 square feet of commercial floor area and have generated a significant increase in traffic on Kellogg and 143rd. A traffic study was prepared, identifying traffic improvements to accommodate the increased traffic. Subsequent discussions have been held between the applicant, the City, and KDOT to determine a realistic level of development that can be sustained without overloading the transportation network. These discussions have resulted in the applicant agreeing to reduce the intensity of commercial development below that allowed until critical transportation improvements are made to accommodate a full level of commercial development. Staff recommendations will identify the amount of commercial development that can be accommodated in the "Recommendation" section of the Staff Report.

As previously discussed, the area along 143rd would most likely be composed of a range of local serving commercial uses on property zoned "LC" Limited Commercial, "GO" General Office, and "NR" Neighborhood Retail. The "NR" tracts allow a much smaller range of uses and restrict the size of any one commercial use to less than 8,000 square feet. The "NR" parcels have been placed nearest the single-family development across 143rd, Park East to reduce the intensity of commercial activity to this neighboring area. Additionally, a 100-foot buffer landscape strip is proposed to further separate the remaining retail from Park East. The "LC" tracts cluster into two groups on either side of the Spring Branch Tributary #4. The "LC" to the east is projected to develop with local-serving retail/office uses. The "LC" to the west is more likely to be auto-related retail where there is a specific destination attracting customers, such as perhaps vehicle sales and furniture stores. Finally, the area along the northern portion of the application area includes two small parcels of "GO" General Office near the "NR Neighborhood Retail, and two larger parcels for "MF-29" Multi-Family. The parcels could generate up to 659 residential units.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6" Single-Family Vacant
EAST: "SF-6"; "SF-20" Single-Family Vacant, single-family residences
SOUTH: "SF-6"; "SF-20" Single-Family Single-family residences, vacant
"GO" General Office
WEST: "SF-6"; "SF-20" Single-Family Vacant, large lot single-family residences

PUBLIC SERVICES: Transportation access is provided to the site via Kellogg (US 54) and K-96, which are both freeways, as well as access to the Turnpike. For the western parcels, 127th is the arterial that would be expected to handle traffic exiting the site and traveling northbound, either to Central or to the K-96 ramps. Southbound traffic is not allowed because 127th is a dead-end at Kellogg. Douglas serves as a collector to the west, extending from 127th westward to Greenwich Road. This mile-long segment is a black-top two lane road which should be serving local residential development to the north and south, although residents feel it is being used as a cutoff between Central and Kellogg.

The traffic study completed for the Kellogg/143rd intersection and subsequent discussions between the applicant and city and county staff have identified two critical traffic points controlling the volume of traffic that can be accommodated before the level of service drops below an acceptable level of service. These points are the northbound left-turn movements from Kellogg to 143rd and the bridge over the Turnpike on 143rd north of the application area.

The most critical point is the two-lane bridge over the Turnpike. Until it is widened to four lanes, the capacity of the bridge is 11,000 ADTs. After projecting base traffic plus expected growth in the surrounding area by 2020, the amount of traffic capacity allocated to increased traffic generated by these proposed uses would be reached at 38 percent of total potential development. This is the initial constraint utilized in developing staff recommendations for phasing of the intensity of use for the eastern portion of Meadow Land C.U.P. Once this constraint is eliminated, the level of development for the eastern portion could be allowed to rise to 70 percent of total allowable development. This would be the intensity that could be accommodated unless or until Kellogg is improved to freeway status at some point in the future.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" of the Comprehensive Plan shows the area for "new growth"; and the "Wichita Land Use Guide" identifies the application area as "commercial" for all of the Meadow Land area west of K-96, and most of the area to the east. The northern portion is shown as "low density residential."

RECOMMENDATION: Based on the proposed C.U.P. being in conformance with the Comprehensive Plan, the use of natural features and major barriers to blend the C.U.P. with surrounding land uses, and the commitment of the developer to provide needed transportation improvements and phasing of development to accommodate additional traffic demand, and information available prior to the public hearing, Staff recommends the application be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (Z-3340) to "OW" Office Warehouse plus specific "GC" uses for Parcels 1-2; "LC" Limited Commercial for Parcels 3-9, 14-7, 20-23; "MF-29" for Parcels 10-11; "GO" General Office for Parcels 12-13; and "NR" Neighborhood Retail for Parcels 18-19.
- B. APPROVE the Community Unit Plan (DP-248), subject to the following conditions:
 1. The following transportation improvements shall be provided:
 - A. The applicant shall work with KDOT regarding geometric improvements at the intersection of Kellogg and 143rd Street. Dual left turn lanes with adequate storage lengths shall be constructed for eastbound-left turns and southbound-left turns. A northbound-left lane and a westbound-right lane with adequate storage shall also be installed. All improvement costs at this intersection, including changes to the signal hardware shall be the responsibility of this application.
 - B. 143rd Street shall be widened north from Kellogg to a minimum of four through lanes (two lanes north, two lanes south) plus additional turn lanes along the entire frontage of this property. The north terminus of this widened section shall be tapered back to the existing two-lane configuration.
 - C. Turn lanes on 143rd Street shall be installed as follows: a single left lane at the south street, dual left lanes at the main entrance (across from Cardinal), and a single left lane at the north street.
 - D. The intersection of Cardinal and 143rd Street shall be signalized with the following lane configurations: four through lanes on 143rd with dual northbound left and single southbound left lanes; three lanes on Cardinal to the east and five lanes on the west side of the intersection.
 - E. The applicant shall guarantee one-half the cost for accel/decel lanes and widening of a center turn lane on 127th, if these improvements are warranted at a later time by development of Parcels 1 and 2.
 2. Until such time as 143rd Street, including the bridge over the Turnpike is widened to four lanes between Kellogg and Central, development on Parcels 3-9 and 12-23 shall be restricted to no more than 380,000 square feet of maximum gross floor area and traffic generated from Parcels 3-23 shall be limited to no more than 13,500 trips per day generated.

3. After 143rd is widened to four lanes between Kellogg and Central, development on Parcels 3-9 and 12-23 shall be restricted to no more than 700,000 square feet of maximum gross floor area and traffic generated from Parcels 3-23 shall be limited to no more than 25,000 trips per day.
4. General Provision #18 shall be revised to eliminate halfway houses.
5. A general provision shall be added to state that prior to issuing building permits, a plan for a pedestrian walk system shall be submitted and approved by the Director of Planning. This walk system shall link sidewalks along 143rd and between the proposed buildings and apartments within the subject property as determined necessary by the Director of Planning.
6. Parcel 1 and Parcel 2 shall be revised to state, "Permitted uses shall be restricted to the following uses: all uses permitted in the "OW" Office Warehouse district; car wash; convenience store; funeral home; hotel/motel, medical offices; recreation, indoor; recreation, outdoor; restaurants; and service station. Site development requirements shall be those stipulated in the "OW" Office Warehouse district."
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
9. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
10. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-248) includes special conditions for development on this property.
11. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property surrounding the proposed development is vacant or in single-family use.
2. The suitability of the subject property for the uses to which it has been restricted: While the property could be developed with low-density residential use, the presence of the major traffic corridors makes this a less desirable site for low-density residential use. It is also contrary to the Comprehensive Plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Because of the buffering and the layout of the C.U.P., the development would not be expected to exert a significant effect on the character of the surrounding property. The major impact would be a significant increase in traffic.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the Comprehensive Plan. It supports the commercial strategies of providing auto-related commercial activities along Kellogg, having office warehouse uses along major arterials, and providing local-serving retail/commercial uses nearby residents. It also provides a mixed-use development, with the potential for utilization of natural wooded areas and walking paths to encourage residential living/shopping within walking distance.
5. Impact of the proposed development on community facilities: The site will have a significant impact on traffic. This would be mitigated by the improvements contained herein and the phasing of development to be timed with major transportation improvements that are not to be completed by the developer.

GOLTRY "This is a large Community Unit Plan, a total of 182.5 acres, although because it is a large development and it is complex and it has several different areas within it, I am going to try to break down some of my comments into different areas of it.

This is one segment of the application. It is an application for primarily 'OW' Office Warehouse and some other 'GC' General Commercial type uses, especially along in this area perhaps (Indicating), to serve the auto related public. There are two parcels here; together they are about 36 acres of developable area. There is a large drainage reserve, part of Spring Branch No. 4 in the middle.

Moving along to the second area, we have a 'LC' Limited Commercial tract here, which will probably be more like auto related, commercial, retail uses. We have a third area in this area that is over by Kellogg and 143rd Street. These have some nice features incorporated into it in that there is a buffer strip of 100 feet along 143rd Street, which is designated for landscaping, pedestrian access and just general buffering of the use from adjacent properties and then some non-intensive types of

commercial uses, identified for this little tract, which is 'NR' Neighborhood Retail. The big difference between 'NR' and 'LC' is that no single user can be larger than 8,000 square feet; therefore it is smaller commercial uses.

Douglas Street extends back for a mile to Greenwich to form a collector's street along the Gilders' Gardens, which is large acre development as well. We have approved CUP 127th Street Center, it is called, for some small-scale retail uses. We have lots of residential development all around the remaining part. If you notice to the north of the tract, we have a site here that is 'SF-6' single-family at the current time, and it is owned by the applicant. It is our understanding that he intends to develop this as single-family, and if that is incorrect, he can correct me. Beyond that we have a church along here (indicating) some more undeveloped but platted property, and all along in here it is already developing with some single-family houses although they have been built since the aerial was taken.

The proposed layout of Meadowland capitalizes on the major transportation corridors which define this tract. I have talked around it, but now let us point them out. They are important. We have Kellogg, which is our major east/west arterial. We have K-96; the ramp on and off K-96 to Kellogg connector. We have it being dissected and divided by the Turnpike, so part of the definition that calls upon this tract for development in this configuration is the fact that it is both blessed with access to those major transportation corridors as well as defined and confined by them.

Some of the general characteristics of the C.U.P., they have proposed architectural control within the parcels of predominately earth tones, coordinated with lighting fixtures within each of the different land use groups. They have proposed lighting fixture limitations at the height of no more than 24 feet, and shielded in a downward direction. They have proposed signage restrictions that would limit all three standing signs to monument signs, no more than 20 feet in height. Heights do vary among the parcels, but basically in the area over toward the existing built-up residential areas, the height would be 35 feet, which is the same as is permitted in single-family district. Further in, 45 feet for the 'MF-29' and for the 'OW'. There was 60 feet for a few parcels. I think the ones clear over in here (indicating) where they are along the highways.

Nearly 20 per cent of the entire site has been set aside as a reserve for Spring Branch and the surrounding areas, plus the additional 100 foot buffer strip along 143rd to serve as a buffer between the development and the surrounding land uses.

In terms of conformance with plans and policies, the Sedgwick County Development Guide has shown this area for new growth and they have shown it for at least 800 feet deep as recommended for commercial development. That is the way it shows on our existing Sedgwick County Development Guide. The area to the north, then, would be shown for low density residential.

Based on the proposed C.U.P. being in conformance with the Comprehensive Plan, the use of natural features and the major barriers, such as the transportation barriers to blend the C.U.P. with surrounding land uses, and the commitment of the developer to provide a needed transportation improvement and phasing of development to accommodate additional traffic demand and information available prior, staff has recommended that this be approved, subject to platting within one year, and subject to a number of conditions. I will go through some of the conditions in detail and other I will just allude to briefly.

First of all, there are a number of transportation improvements, and we are fortunate today to have Jamsheed Mehta here to talk with us on transportation issues. I won't go in detail through all of the transportation issues at this point. I will point out that we have had some discussion with the applicant since the staff has come out, just recently to raise the issue of the possibility of phasing in some of the transportation improvements as they phase in the development rather than installing all of the transportation improvements that are called out for initially. We really haven't had time to respond to that request yet because we just started dialog on that. So I will defer to others to discuss that.

Recommendation No. 2, which is an important one; 'until such time as 143rd, including the bridge over the Turnpike is widening the four lanes between Kellogg and Central, development on Parcels 3 through 9 and 12 through 23 shall be restricted to no more than 380,000 square feet of maximum gross floor area and traffic generated from Parcels 3 through 23 shall be limited to no more than 13,500 trips per day generated'.

After 143rd Street is widened to four lanes between Kellogg and Central, development on Parcels 3 through 9 and 12 through 23 shall be restricted to no more than 700,000 square feet of maximum gross floor area, generated from Parcels 3 through 23 and be limited to no more than 25,000 trips per day.

Recommendation No. 5 is to add a pedestrian walk system. This is a fairly standard recommendation. Item 6, Parcel 1 & 2 shall be revised to state 'Permitted uses shall be restricted to the following uses: All uses permitted in 'OW' Office Warehouse, car wash, convenience store, funeral home, hotel/motel, medical offices, recreation indoor/recreation outdoor, restaurants and service stations'. Site development requirements shall be stipulated in the 'OW' Office Warehouse district.

I was trying to collapse this very lengthy staff report, and maybe I skimmed through the public services section a little bit too quickly and I do want to back up and point out that that there were two driving transportation constraints that helped to define what the recommendations were. The first constraint would be the bridge over the Turnpike on 143rd Street East. It was because of the limitations of that two lane bridge that we have called out for limiting their total development to roughly 38% of what typically they would have been allowed to have had on those parcels that are on the 143rd Street East side of the tract.

Then, if you look into the future and think that maybe 10 or 20 years down the line, this bridge problem over the Turnpike is solved, (and that is a problem we feel will have to be solved, regardless of this development); if you look into the future and see that constraint is solved, then you look and the major constraints become how much traffic can you anticipate being handled at 143rd and Kellogg. As long as 143rd and Kellogg remain as a signalized intersection with the addition of dual left-turn lanes, the

appropriate level of development there would be capped at 700,000 or roughly 70% of the development capability of the site. I wanted to back up and kind of embellish on that comment.

The other recommendations that are given are just more of our standard language for C.U.P.s. One final issue I should point out is that we didn't really focus on whether or not there would be minor drives on 143rd because when we were looking at the development plan, I kind of glossed over the fact that they had three major points of access on 143rd. The traffic study showed three minor drives as well. We have talked some more with them about that since the staff report went out and the feeling is, and I am not putting in their mouths, they can certainly get up and correct me, that they don't feel like this is a major issue on their part, but they have been requesting that perhaps they could put in these minor drives on an interim basis until the three major roads are constructed within it in case they were building just one small retail site. I spoke briefly, I only had a chance to speak briefly with Marvin and Jamsheed about this before the meeting, we would not feel that they would want to have these minor drives there permanently because they would conflict with traffic somewhat along 143rd, so we would recommend that however this be handled, it be handled as an interim measure where the minor drives would be closed and would need language that nailed down that they would be closed at that time. Of course, that is something they will want to discuss. They really haven't had a chance to adequately discuss what I am saying about that yet. I have spoken for too long, so I will now stand for questions."

GAROFALO "Are there any questions of Donna? I guess I have one. I was just wondering where KDOT is involved in this thing? Are they involved at all?"

GOLTRY "Absolutely. We have been in meetings with KDOT on this since December, I think. We have had several meetings with KDOT, City staff, and County staff on the transportation component of it."

GAROFALO "If Jamsheed or someone could speak to that."

GOLTRY "Yes. He can speak better to that than I can."

GAROFALO "The reason why I raised that is because in his E-mail message from Mr. Timmie Nagy that is attached to our packets. It says something about his zone changes were previously denied on the northwest corner of Kellogg and 143rd Street East. He says 'it is my understanding that KDOT intends to close the entry to 143rd Street in the future'. What does that mean?"

JAMSHEED MEHTA, Planning staff "KDOT has been involved in discussions since about eight or nine months now. Back when the applicant was first in here, we posed the question that if in fact, Kellogg could be allowed to be an access point into this development, their answer back was 'no'. In principle, also we are all signatories to the master plan for the corridor preservation of Kellogg.

The next level of discussion went where if all of this traffic was being funneled through 143rd Street, would the facility at 143rd, including the intersection at Kellogg and at Central and their main entrances handle it, and that is where most of the traffic and fact studies were done. In fact, they were done about twice by a consultant hired by the applicant.

Specifically to your question, whether in the future will there be any 143rd Street there at the point where Kellogg is, we don't know. Quite likely, if there is a freeway concept extended like the existing plans for the City of Wichita to extend the Kellogg freeway concept further east, as we come to 143rd, we are posed with a situation of having these K-96 ramps only about half a mile away from 143rd, so by the time you add additional ramps to get off and on 143rd, our best guess is that no, this is not a good location for a ramp interchange, therefore it may not be an interchange at that location. So 143rd Street may continue north/south, but may not necessarily intersect with Kellogg. The way to move traffic from Kellogg to 143rd Street, and I am speculating over here because we don't have any concrete designs yet, would be half a mile or some distance further east of here, similar to the other concepts of Kellogg, where you have an opportunity to make a U-turn in the mid-mile.

So what the future for 143rd Street is going to be is unclear. It will take Butler County, Sedgwick County, the City of Wichita and KDOT to work together in the next few years to decide that. The second condition, which was to allow development of the east side of this plat to only about 70% of its potential has to do with the fact that we don't want it to go any higher, is beyond which the signalized intersection of 143rd and Kellogg will not work. That is why we are capping it now. If it turns into a freeway, with or without an interchange in the vicinity, then that area can handle that kind of traffic because it will not be a signalized intersection. Either it will be a bridge over and they do not meet, or it is an interchange."

GAROFALO "Is there anything in the works that we are sure will be an access? Will there be an access road along Kellogg normally, if it is a freeway?"

MEHTA "Probably 143rd Street, right here (indicating) the north/south, could be connected to access or frontage roads and those frontage roads could be on one or both sides, depending on what the nature of the frontage road is. I really can't tell right now exactly where this interchange is. If it is not over here, will it be half a mile further east from this point. So assuming traffic is coming from the Wichita side on Kellogg, it cannot get off at this point. It continues half a mile or thereabouts and makes a U-turn onto the frontage road or on Kellogg and be able to come out onto 143rd Street that way. They won't have the luxury of having a signal light like it is right now."

PLATT "Jamsheed, have you and Traffic Engineering approved the three entrances on 143rd Street?"

MEHTA "Those are platted streets, as they are proposing. In addition to those three, they are also requesting three driveways."

PLATT "And you are approving the ones shown on the C.U.P.?"

MEHTA "The ones on the C.U.P., yes."

PLATT "And when it comes to Subdivision, you won't be opposing?"

MEHTA "That is accurate."

GAROFALO "Are there any other questions of Jamsheed or Donna?"

LOPEZ "I want to ask Donna, what the dates of the slides you took?"

GOLTRY "I think two weeks ago."

LOPEZ "So will you go back to the last slide? How many postings were there out there for zoning two weeks ago?"

GOLTRY "At that time, I believe there were three postings."

LOPEZ "One on each major artery?"

GOLTRY "Yes."

GAROFALO "Donna, this reference in this message to us about zoning changes that were previously denied to the northwest corner of Kellogg and 143rd Street?"

GOLTRY "That is the northeast corner. If I said northwest, it is incorrect. It is immediately south of Park East."

GAROFALO "Could you tell us anything about what that was all about? Do you know anything about it?"

GOLTRY "I am probably not as qualified to speak on it as some other people here because they were involved with the case, but from my understanding, there was a lot of opposition from the neighbors because they did not want any commercial in their area. I think there were even some statements at the time that they thought that if there was commercial in that area it was more appropriate for it to be on the west side of 143rd rather than the east side."

GAROFALO "You don't know when that was?"

GOLTRY "It was in 1997, I believe."

GAROFALO "Marvin, can you enlighten us on that zoning denial on the northeast corner?"

KROUT "There are probably neighbors here that would have a better memory of that than I would, but I know the Planning Commission was split on the issue and the County Commission denied it."

GAROFALO "Okay. Are there any other questions of staff? Okay, then we will hear from the applicant or agent."

TERRY SMYTHE "I am with the Baughman Company, here on behalf of the applicant. With me today is Steve Hofener from the traffic consultants out of Oklahoma. Also with me are the owners of the property, so if you have any questions for them, specifically about traffic studies, feel free to get Steve up here."

What we brought to you today is really an overall development plan that is, in my opinion, very comprehensive. Rather than bring this piece of property in at a piecemeal basis, we thought it would be best just to address the whole kit and caboodle one time only, look at it and try to figure how to put it together to make it work in the long run. So what you have in front of you is a large-scale development plan that really addresses the issues from 143rd Street to Kellogg, to Douglas, to 127th Street. It was put together for that intent. We didn't want to see small pieces of zone changes come in and address it one by one. We thought the best thing to do was to put it on the table and have discussion on it.

The plan was developed over a 9 to 12 month period of time back at the first part of the year. We sat down with staff and kind of gave them an indication of where we wanted to go with this thing. We had to come back later, about the first of the year, when it was originally scheduled to be heard to hire a traffic consultant to start running numbers on the traffic. Traffic volumes really are a critical criteria on this piece of property, how we are developing it and how we are trying to phase it. The traffic study really took into account, with Jamsheed's help and KDOT's help, the Turnpike Authority's help and the County's help, the background traffic, the 2030 is projected out there as well as the additional traffic that we would generate with this kind of commercial development.

As the staff report indicated, really, we kind of looked at this property as somewhat unique in that it was able to serve three different areas. One over at 127th Street with the access to the frontage roads and the off ramps to K-96. We think that is a good location for some Office Warehouse with some Limited Commercial uses over there for a short period of time. Over on

the major part of the property, 143rd Street to K-96, we think the area that is west of the Spring Creek area is probably going to develop with some uses that quite frankly will probably be forced off of Kellogg to the west, when Kellogg gets improved and on-ramps and off-ramps are taken down there, we think that there are going to be some users that are going to want to come out here and look at this because of the frontage along Kellogg.

Also, near the intersection of 143rd and Kellogg, we see that really as operating as a neighborhood type of shopping center, the typical shopping centers that you see on a lot of the major corners that have grocery stores, dry cleaners, the video stores. Pretty much things that we all go to. We all drive a mile to them and shop and use. That is kind of how we worked on the development plan to indicate that. We have tried to be somewhat sensitive, I think, to the owners of the Park East area, and if you look at the plan, rather than 'LC' up in that neck of the woods, we put some Neighborhood Retail, and in addition, all along 143rd Street, we have 100-foot wide buffer strips that in combination with those acreages in the Spring Creek acreages that we are setting aside, we have approximately 25% reserve areas for that.

The distances along 143rd Street for those buffer areas are 100 feet, so in essence, we are pulling our zoning 100 feet west of 143rd Street. So the distances from the start of our zoning on our site, to say the actual structures of some of the houses in Park East is close to 300 feet in distance. One of the slides indicated that there are really some pretty good buffers on some of the houses along Park East. There is one on the very corner of Cardinal to our east that doesn't have the tall evergreen hedge trees. The rest of them have the tall, mature evergreen trees.

On the south side, when we were kind of looking at what we could do to try to mitigate and buffer some of the homes to the south there, we looked at what distances we are from our zoning across US 54 and across their pond. In that distance you are talking 400 to 500 feet distance separations, but what we are doing on the north side of a highway to their distance. When we started talking with KDOT early on in the process, we realized, and Jamsheed is correct, they are still trying to finalize their plan for this thing, but all indications is that this will be an elevated freeway in this area. Because of the drainage that comes through our property, there is no ability to take US 54 underneath that area and depress it. It is going to have to go on top of it. So what we think is going to happen is that from roughly the K-96 on/off ramps that that will be an elevated freeway. Elevated some 30 to 40 feet above the existing grade today.

In all honesty, I think that is kind of a separation that is going to offer some very good separation from what we are going to do on the north side to the homeowners' to the south. Now, granted they are still going to be along a major highway like they are today. You are still going to hear downshifting of trucks and everything else that is going to occur, but that is kind of what you do when you live along a major highway. Now, when I bought down by Jabara Airport, K-96 wasn't there. Then it got put in and I hear trucks all of the time, downshifting and everything. I guess that is kind of part of what we all have to accept to make the town better. That is my opinion.

What we looked at when we discussed with KDOT, I guess, was our ability, if we could, to use US 54 highway. Quite frankly, with the condemnations of K-96 and all of the on and off ramps, we don't have access to US 54. We would love to have access to it, but it just isn't going to work out. We hired the traffic consultants to help us visualize what his projections are and what kind of improvements would be needed along 143rd and Kellogg. Steve will be up here in a minute and answer that. What I think we are going to try to do here and what we are proposing is that we are going to phase in our development, according to the traffic criteria. The Turnpike Authority is a major impediment to our ability to develop this very quickly. We think maybe a 10-15 year build-out would be optimistic in our opinion. Our first phase will be controlled by the improvements that will allow 380,000 square feet of building and 13,500 trips per day. The second phase is determined really, by when the bridges are built. It allows us to build up to 700,00 square feet. Finally, we will have full ability to build when we get to the elevated freeway on Kellogg.

What we were asking to do is to phase in some of those improvements. In other words, if we were to build dual left-turn lanes and signals at Cardinal Street and all of the other things right now in the early stages, we think that is overkill. We would like to have the ability to sit down with staff, maybe during the platting process and determine whether this is an appropriate level of improvement as we go. That is kind of where we separate ourselves a little bit from the staff report today. So we don't run out of time, I will turn this over to Steve, and he can give you some more information on the traffic study itself as well as some of the additional information about improvements to Kellogg and 143rd Street."

STEVE HOFENER "I am with Traffic Engineer Consultants in Oklahoma City. As Terry indicated, we did a full traffic report and have worked with the staff and had several meetings, not only with the City staff, but with KDOT and the County as well to review all of the results of those. There are quite substantial improvements that will be necessary on 143rd Street. They are pretty much outlined in your staff report in regards to what ultimately will have to be built. Essentially, it is to bring 143rd Street to a full four lane roadway with left-turn bays in some cases even being dual left-turn bays at the main entrance into this particular site to accommodate the traffic, and also for the installation of a traffic signal.

That main entrance lines up with Cardinal Avenue. That entrance alignment was at my recommendation. Primarily, the residential neighborhood over on the east side, there is no way for anybody to go into that neighborhood and take a shortcut anywhere to get to another major arterial. When you can't have any reason for commercial traffic to be into the neighborhood, it works better to make an alignment with the roadway like that to provide them good access out to 143rd Street as the traffic continually increases on that. That is the purpose and the reason for aligning it. The staff agreed with us in that regard.

At 143rd Street and Kellogg, there are some pretty major revisions that will be need to be made down there, including dual left turns east bound and adding right-turn lanes in that area to accommodate the traffic. With all of those improvements in place, I am assuming that the traffic projections of the 2030 plan of the city, the traffic issues will be mitigated in this area and the street system will be able to handle the traffic substantially."

GAROFALO "Are there any questions of the applicant's agents?"

PLATT "I have a question of Terry. Do you accept the staff comments with the exception of timing on street improvements?"

SMYTHE "Yes, we do."

WARREN "One hundred forty-third Street is being held up, I take it because of that bridge at the Turnpike. Is there any planned improvement between Kellogg and that bridge, or are they all going to be contingent upon the widening of that bridge?"

SMYTHE "I am going to have to rely on Marvin here. I know that the bridge is the controlling factor on our first phase of development because of the narrowness of the bridge."

KROUT "We are showing in the long-range plan that it needs to be upgraded to four-lane road, but it is not in the City's nor the County's Capital Improvement program right now. The main constraints is that it would need to be widened all the way from Kellogg to Central, but the bridge makes it a more expensive and complicated issue. One of the questions is: do you continue to take 143rd Street over Central because it comes down pretty steeply on the north side near Central. Another approach might be to take the Turnpike over 143rd Street eventually and lower 143rd Street. It might be the best ultimate solution, but that would be more complicated, more expensive and require cooperation from the Turnpike Authority. It needs to be widened eventually, it is not in the Capital Improvement Program yet. It is probably going to be a more expensive than usual job because of that bridge."

GAROFALO "Are there any other questions? I guess maybe I have a question. I know what you are asking for; my only question is: has there been any thought given to single-family housing in a significant portion of that tract? I am thinking that that would coincide, maybe, with the housing to the east."

SMYTHE "When we looked at some designs for that, primarily we looked at single-family to the north where you see it today. The location of Spring Creek, as it comes down through there, the crossing of Spring Creek to get to the other side, I think dictated, in my opinion, more of a commercial flavor to that as well as the additional frontage roads. You have to realize, to make this function in our inability to get underneath K-96 westward, that we have to have a little more space. With the additional requirement that KDOT is going to put on us to dedicate more right-of-way, we think we need some more ground to allow that to happen. We fully realize that our development plan still has to address detention requirements. Detention requirements within our parcels will have to be addressed as we develop that. So I guess that is our justification. We need some more room to handle the KDOT requirements as well as the detenture requirements that we don't particularly want to put down in the Spring Creek basin. We want to handle that before it gets to that."

GAROFALO "Are there any other questions of the applicant's agents? Is there anyone else who would like to speak in favor of this application besides the applicant or the applicant's agents. Seeing none, can I see a show of hands of how many wants to speak in opposition? I count about 11 hands. Okay, we will hear from the first speaker. Let me remind you that we would like to have you give your name and address before you speak and also that you are limited to five minutes each."

KENT WEIXELMAN "I live at 122 Cardinal Lane. I live in Park East. I was designated by our Homeowners' Association to speak in opposition to this zoning request. I will say that opposition to this request is unanimous among the 44 homeowners' in Park East. I have been a practicing engineer for 20 years, my primary discussion here is one with regard to traffic. With regard to the traffic report that was submitted, I recommend that you put the most faith in the very first sentence of the report, and I quote 'TEC was retained by the Baughman Company'. What answer would you expect to get? I also think it is very important to note that the C.U.P. was available long before the traffic report was finalized. Very surprising, the traffic report supported the C.U.P."

This report contains very few facts, many assumptions and many errors. For example, this report is based on 394 apartments."

GAROFALO "Sir, could I interrupt you for just a second? We are having a heck of a time understanding you. My hearing isn't that bad and I am sure others are having the same problem. Use the microphone and try to project a little louder."

WEIXELMAN "Okay, I will try that. Is this better? Okay. This report is based on 394 apartments. The C.U.P. allows 659. That is the first flaw. The report cites a critical intersection at Kellogg and Central. Well, if there was an intersection of Kellogg and Central, it would be critical, I agree. The report recommends 6 lanes on south 143rd Street to carry 60% of the traffic and yet only two lanes on north 143rd Street to carry 40% of the traffic. Anyone who can do math can understand that that makes absolutely no sense at all."

An example of other problems with the report, this is taken straight from the report, Figure 2, existing traffic, and peak hours. One hundred twelve cars per hour out south and 104 cars out north per hour. Proposed traffic 188 out south, 841 out north. The average delay is going to increase by less than 5 seconds. What this report is trying to tell you is that traffic will increase by a factor of 10 and the delay per vehicle will be only 5 more seconds. I don't know about anybody else, but I cannot believe that. It is ludicrous, to say the least."

GAROFALO "Sir, maybe you should take the other mike with you when you are speaking from there. And maybe hold it a little bit farther away from your mouth. Maybe that will work better."

WEIXELMAN "Okay. This is typical Wichita commercial development. This is Towne East. Ninety-six acres. That is approximately half the size of the area requested for zoning. Notice the key here for an exit, this little dot? There are 12 major exits coming out of Towne East. Again, I will repeat that this is about half the size of what they are going to request for Light Commercial. Twelve major exits, four different roads, all roads four to six lanes. Here is Eastgate, 30 acres. Fifteen per cent of the size requested for all rezoning. Again, ten exits, five different roads. We have approximately 150 acres being rezoned. One road is now four lane with three exits. Very critical.

This report also recommends a second left-turn lane off of Kellogg. It fails to mention that Kellogg is not wide enough to support this. The report also failed to mention that the long-term plan for Kellogg eliminates direct access to 143rd off of Kellogg. If a second left-turn lane is required now, what happens when direct access is denied. It is very important to think about that.

The Towne East and Eastgate developments represent reality. Twelve exits and ten exits respectively onto four different roads. There is not a single commercial development in Wichita of the size proposed with only three exits onto the same road, which if the developer has his way, will remain basically a two-lane road. Given the limited access, this property needs to be developed as General Office or some other lower traffic approach. The plan that is proposed will create a traffic nightmare. The developer is asking to dump 150 acres worth of traffic onto a single road, which is not even four lanes wide. You have two choices here. You can work it through what has been proposed, or you can look at what has been shown to work in the past like Towne East or Eastgate. Can I have two more minutes, please?"

MOTION: That the speaker's time be extended for two minutes.

CARRAHER moved, **WARNER** seconded the motion, and it carried unanimously.

GAROFALO "Okay, you have two more minutes. Will you please go to the podium?"

WEIXELMAN "Thank you. What is Mr. Lusk's motivation? Is he trying to improve the neighborhood? Is he trying to improve Wichita? No. Mr. Lusk's motivation is simply money. He has no concerns for the problems he would create. With this plan, he will develop the property, sell the various tracts and leave the neighborhood to suffer with the problems. If you believe the developer, traffic will be no problem. What they mean to say is that it will not be their problem. They will make their money and be gone, leaving the problems to the people who live in the neighborhood. When Mr. Lusk proposes this development, if he lived in Park East and had to deal with this mess, the mess it will create for the next 30 years, I can say with conviction that he would not. Would you vote to approve this plan if you lived in Park East or one of the surrounding neighborhoods? Please ask yourself this.

Many of the people here in this room and in those neighborhoods will have to live with your decision for the rest of their lives. This is not a paper decision. Is this good for Wichita? In the neighborhoods surrounding 143rd Street and Kellogg, the people in these neighborhoods and the people you see every day, we are Wichita, and we are here to tell you that this plan is not good for Wichita. What is best for all parties? Please ask yourself this question. We know what the developer has put in front of you is best for him. Please listen to the neighborhood as to what is best for us. And I would ask lastly, as we just got access to the traffic report late on Tuesday if we can have two more days to submit an official rebuttal to the traffic report to have it allowed into the official record. That is all I have."

GAROFALO "Are there any questions of the speaker? I gather that your main concern at this point is the traffic."

WEIXELMAN "Absolutely, sir. If you look around Wichita, which we did, and survey all of the major developments, none of which are near this size, you will find no development that dumps this amount of acreage onto a single two-lane road. We certainly appreciate what they are trying to do buffer wise, that will help, but it will not address the traffic problem at all."

GAROFALO "Are there any other questions? Thank you."

WEIXELMAN "Can I ask a question with regard to submitting this information on the traffic report into the official record since we didn't get the traffic report until late Tuesday. Can I have a couple of days to do that, please?"

KROUT "Whatever information you send us will be made part of the public record at any time. If you are asking will the Planning Commission wait to make after that,..."

WEIXELMAN "No, sir, I guess I am asking if that information will be forwarded to the City Council."

KROUT "Yes."

WEIXELMAN "Thank you."

GAROFALO "Next speaker. Please state your name and address."

SHANON BURKE "I live at 637 Lakeshore Drive in the Springdale Lakes Addition. I am here to talk about the drainage issue. The only mention of drainage was that Kellogg had to be elevated in order to allow for the drainage. That is because it is coming south on us. This whole development is built on a hill and the drainage will go through our developments. Spring Lakes and Timber Lakes south of the proposed zoning change are upscale neighborhoods that have been developed since the 1950s with man-made lakes as part of the suburban appeal.

The problem is that the dams in these neighborhoods were designed to handle 1950s flow volume when farmland absorption factors were greater. Development since, including Spring Dale Lakes Second Addition and K-96 has increased the flow to these dams. The dams are completely inadequate. Development is inevitable, but intense problems exist. A topographic map needs to be looked at prior to approving commercial development. The dam was designed to catch this water from Springdale Lakes Second Addition to the east of where I live. It regularly overflows across 143rd Street and through my back yard. That was designed to keep the excess water from flowing on us. Now, no one is accountable because the developer has moved on and the plans are submitted and approved and no one is accountable or wants to be. No one wants to say that they underestimated the flow.

There is a (unable to hear) between the subject property and ours. I believe until a comprehensive flood plan is devised that includes the dams and Springdale Lakes as well as Timber Lakes, maximum absorption should be the rule. The less pavement the less the problem. Commercial and multi-family housing requires more pavement. I heard the man say that he wanted automotive type of businesses in there. I assume that means (unable to hear) and a lot of pavement. This development maximizes the run-off and therefore this zoning request should be denied or postponed until further drainage concerns can be addressed. I don't think you want to flood these neighborhoods or lower the value of these upscale neighborhoods. If you focus on the engineer study, the problem will get worse each and every time something is brought into these developments and neighborhoods. The only way to save this area is with resources. If the resources aren't there, all we can do is minimize the negative effect. When we don't have the resources, we build all the dams along this drainage basin. This express has to do with increased involvement and the needs and it needs to be a concern. Therefore, this zoning should be denied because it needs to fit with the Comprehensive drainage plan and not a reactionary one. (Unable to hear) the City will be responsible for flooding 200,000 plus homes. If we only have problems with drainage at the current level, we can address the issue, but even us in a small homeowners' association can do that. Not unlike a watershed, we are the funnel for a large amount of acreage, both developed and undeveloped to the north, west and east of us.

The Springdale Country Club improvement district has spent over \$9,800 since 1995 to reconstruct roads just from the flooding as a result of run-off. The average rainfall for the immediate area reported by Mr. Fitz has been over 43-1/4 inches since 1995, which is higher than the listed average rainfall of Wichita by almost 6 inches. Since the completion of K-96 bypass and interchange, a perceivable difference in water accumulation has been noticed and the level of our lakes is average higher overall as a result. Any further development of the surrounding areas that are open must adhere to the rule of 'no more run-off past tomorrow that is passed today'. That is used by the County Engineer and his plat review team.

Our water problems are documented with the County Engineer, the county Commissioner and we hope that if rezoning is approved that the developer would work very closely with the County Engineer to ensure that there is no more run-off than the rule implies. I am finished. I have some pictures here of this if anybody would like to look at those."

GAROFALO "Those will become part of the record. We have to keep them."

BURKE "That's fine."

GAROFALO "Thank you. Are there any questions of the speaker? Okay. Next speaker?"

RICHARD EVANS "I live at 620 Edgewater in Springdale Lakes, the Country Club area. I have lived there about a year, and I have been pretty proud of the development itself, but not so proud of what has happened to us there. Last October, we had an approximate 8-inch rain in one shot. I got up in the morning at about 6 o'clock and looked out front and what did I find? The road flooded and ducks swimming down the middle of the road. That is with an 8-inch rain. We get drainage all the way from K-96 plus the developments here in question. We are flooding, many times, with a 2 and 3 inch rain because the water is continually coming up. Nobody has any concern about it and we are getting a little bit disgusted and the money is coming out of our pockets for the repair of the roads and eventually it is going to be getting into some homes out there and then you are going to have some pretty tired people.

That is all I have to say, but it was a very eloquent presentation by the Lusk representatives, and I respect that, but we also ask that somebody gives us a little respect out there. Hardly any mention was made of the land that we live on in the Springdale Country Club area and Springdale Lakes. So, I would like to see Lusk address that before any decision is made. Thank you."

GAROFALO "Are there any questions of the speaker? Okay, next speaker."

DICK RANDELL "I have lived in Park East for 42 years. We built out there in 1958. The area was platted in 1952. I don't have anything very sophisticated to say here except to stress the environmental and quality of life issues. This will introduce into our area a very large Limited Commercial area, zoned for that and for other uses. It will also introduce multiple dwellings into our area. We are all single-family, normally pretty much on larger tracts and we certainly hate to see multiple family dwelling out there with out traffic and road problems. Of course, when this kind of development comes in, there is more noise, there is light from the signs, etc., there is air pollution, and in most cases we can anticipate that there will be more crime. And of course there is the traffic problem, which is the main problem. We already have our first 'house for sale' sign up now, right at the place where the entrance, the main street to this area will intersect with 143rd Street and Cardinal. That was the last house built in the area, very nice property with lovely landscaping, etc., but it is for sale.

We do know that the water run-off is going to be a problem. The question is what kind of planning has been done to restrict the damage to properties below? We have had the presentation on that and we certainly agree that that is going to be a problem. The sewer capacity is somewhat restricted out there. It is not on City sewer, there is no way to get it on City sewer without

spending many many millions, tens of millions of dollars because of the elevation. So we have the Four Mile Creek Sewer District out there, operated by the County and there is a 121-inch main that runs across the northwest corner of this property and that is all. I checked with the sewer plant and they are maxed out now in Phase I; they will be going into Phase II and this is really going to be strange. This is a big tract. With the multi-family and with all of the Limited Commercial, there is going to be a real sewer crunch out there for us all.

We are also concerned about property values. The assessor has raised me 16% in the last three years. I think it is inevitable that when the construction begins on this tract that our property values will begin to decline. That is what we hear from Real Estate people in the area, and we expect that. I want to just look at the staff recommendations for just a minute. Our problem is access. We have two exits and entrances onto 143rd Street, and I don't believe there is anywhere, certainly in Sedgwick County or anywhere else, where this large of a tract, which is rectangular, would exit on one end. That is the problem here. They know it is the problem. We know it is the problem. We know that it is going to tremendously effect our ability to get in and out safely.

My own family has had one accident on the bridge over the Turnpike. It is not a normal bridge. It is just the traffic lanes, there is nothing beyond them and it is a very steep descent and a very steep ascent. You cannot see the traffic on the other side, and already it is getting so you can hardly go over that bridge without meeting a car. The fact that you just come right down to the stoplight makes it very dangerous and it is subject to icing, etc. There have been other accidents on that bridge and we just happened to have one, too.

I urge you not to leave us, by your action today, with the most dangerous exit or entrance on Kellogg. I have been down there and paced it off."

GAROFALO "Sir, your time is up."

RANDELL "Can I have two more minutes, please?"

MOTION: That the speaker's time be extended for 1 minute.

CARRAHER moved, **WARREN** seconded the motion, and it carried unanimously.

RANDELL "Thank you. This will be the most dangerous exit/entrance on Kellogg because the traffic is moving there at 55-65 miles per hour. When we drive up to left turn in, our cars just rock like this. I paced it off and there is not space for another left-turn exit there. Now I don't know how you will manufacture that. You can't move those Kellogg east and west throughways. But there is not room, so what do we do?

We don't want multi-family introduced out there. We hope you will not do so. Who will monitor the builder or the applicant over the years? This will be over years. So we just ask you not to approve this application today. We believe it is an extremely important decision that you are making."

GAROFALO "Are there any questions of the speaker? Next speaker."

DIESA SNYDER "I live at 148260 Siefkes Court. I represent the homeowners' of the Meadow of Shadybrook, which is the area directly to the north of Park East. I think the thing that we have the biggest problem with right now besides the traffic is the fact that Four Mile Creek borders the eastern edge of our property. We have seen, just in the five-year period that I have lived there, two times when the area flooded so significantly that we had water in basements in the homes. These are homes that are built outside of the 100-mile flood area. I hate to bring up the word of the folks on the west side that are suffering from the problems because of all of the concrete that has been laid in the name of development over the last few years, but my major concern is the fact that with the Light Commercial that is going in, we are going to be laying a lot of parking lot over there. We are going to lose that water run-off that normally the ground would have soaked up, and my fear, and my neighbors' fear is the fact that that is going to wind up flooding our area, or the area directly to the south and east of us. That area is the Four Mile Creek area that runs over towards Andover and in which there have been some homes that have recently been bought out by FEMA because of the flooding problems.

The other issue that I have is that I understand that the proposed developer believes that this is an area that would service the neighborhood because of the fact that we would have some Limited Commercial there, some Neighborhood Retail. I will tell you that we have, between 21st Street and all the way down to Harry, it is solid residential development, single-family home development all the way through there. We are serviced very adequately by Andover. That area is undergoing a major growth period right now. We have two grocery stores to chose from there. We have cleaners, we have video parlors, everything we need. We don't need this on this corner. A number of us also go into Wichita, using Central as our major access. I don't think that this is something that is going to be utilized by us in the neighborhood.

Another issue that I have, and I think it was spoken to by the fellow that was just here before me, and that is the fact that that bridge going over 143rd Street, which is the Turnpike bridge is extremely dangerous. We have a zone through there that is a deer trail, I guess, and we have quite number of deer that go back and forth there. We have had some accidents along 143rd Street just because of the traffic with the deer that go back and forth there to gain access to the other side of 143rd to the water.

As you are coming over that two-lane bridge, you cannot see at all, especially in the nighttime. It is a real problem. Also, along K-96 as you are going east on Kellogg as you are coming south and going east, during the peak traffic hours you will see cars

backed up all the way to K-96. That is currently, as-is now without any additional development there. That bothers me significantly. I think that we already have a minor traffic issue there and it is just going to be increased. That is all I have."

GAROFALO "Are there any questions of the speaker? Thank you, Ma'am. Next speaker."

RON JARVIS "I live at 14539 Hawthorne Court in the Meadows of Shadybrook just east of Park East. I don't have any prepared notes for you, and I am going to stay inside of 5 minutes, probably 3 minutes."

A couple of points. One is that I share everybody's concerns that have been voiced so far. I think they are all very valid, rational concerns. I want to particularly emphasize Central and 143rd East. When and if Kellogg flies past 143rd, where is the traffic burden going to go? A lot of it is going to go to central and 143rd East. Central is two lanes between 159th East and 143rd Street East. It is being widened between 127th and 143rd. On that overpass, there is about 30 feet of level asphalt between the intersection and the overpass. I just can't imagine how you are going to flow a great deal of traffic through that intersection.

No. 2, this whole idea that this development is serving the residents, I dispute. I disagree. We are serviced just fine. We don't need anybody helping us here.

No. 3, I am deeply concerned with a comment I heard of 'well, we will just have to raise the Turnpike and send 143rd under the Turnpike'. Please understand that Four Mile Creek runs right through that intersection of 143rd Street East and Central and the Turnpike. It floods regularly. It is a real mess right there and trying to make it bigger and flow more traffic through there is, I think, fraught with a lot of problems.

The fourth and final point I want to make, and then I am going to let somebody else take the podium, is, and I could be wrong, but I am making an assumption here, is that the owner of this property bought it with the understanding that it is zoned single-family. I bought my property with the understanding that it is zoned single-family. I am willing for the assumption to stay put and I would like for him to do the same. Thank you."

GAROFALO "Are there any questions of the speaker? I think I want to make one little correction, unless I am wrong. I think you are referring to the comment made by Jamsheed Mehta about..."

JARVIS (Indicating) "This area along here, in my understanding, is zoned single-family."

GAROFALO "No, what I was going to talk about was when you mentioned that somebody said something about going under the Turnpike."

JARVIS (Indicating) Right. This is 143rd East here and Central. The Turnpike goes right through here."

GAROFALO "No, Central is clear up. There is the Turnpike up there."

JARVIS "I heard one of the petitioners say that in the future they would raise the Turnpike and run 143rd East under the Turnpike."

GAROFALO "Did somebody say that? Oh, Marvin said that?"

KROUT "I said they may, but I think it would be better to continue with the Turnpike up above."

GAROFALO "I stand corrected. Next speaker, please."

PAUL RYDING "My wife Sharron and I at 160 Cardinal Lane for 35 years. We do appreciate this opportunity to express our concerns and would ask for your sincere consideration with them. I would also like to go on record as saying that I did call this morning to see if we could delay this because I really think we would have had about another 100 or so people here had not the weather been what it was, but we couldn't have gotten them in anyway."

We have enjoyed having that land out there and certainly Mr. Lusk should be proud of it. We have literally watched the 'deer and the antelope play', and we have seldom had a discouraging word, until now. We met with the developers the other night, a group of us from Park East and the surrounding area, and one of the questions I proposed to them was that I really figured that there would have been a fair amount of consideration and other options that could have been taken with this land. The answer was no. They had given no other concerns as to what they would use this land for.

They did state that a land use committee, years ago, had said that that needed to be dedicated for commercial use. I understand that. Back then, it probably made a lot of sense. It certainly is a nice, nice piece of property. It is a beautiful piece of property. And we had access to Kellogg back then. But now it is like we have the Atlantic Ocean there, we have the Pacific Ocean over here, and we are going to use the Panama Canal to get to it. And it isn't going to change. I know that Terry Smythe, after visiting with him at that meeting, had a major concern, and everybody has had a major concern with getting to this property. We can quote all of the statistics we can possibly come up with and they will make sense for whatever side you are on, but I certainly would appeal that one other factor should be considered, and that is common sense.

If we look at the traffic pattern that Terry has put together, he addressed it, I think, as best as he possibly could address it, but it is not a problem that solves. There is no way that we can anticipate how much traffic that this is going to carry. It is pretty

much a given that 143rd will not have access to Kellogg, and whether that is going to be in 1 year, 10 years or 20 years, we don't know, but it is probably a given.

The other thing that concerns me is that nowhere in any of this conversation has anybody indicated that we have a compelling need for any Light Commercial there. It just hasn't been demonstrated. We certainly do not dispute the fact that this land is going to be developed. I think it needs to be developed because it is a good piece of land. That is not the question. The question is what is going to be the best use for this land. That is our challenge, that is what you are charged with is to develop this. So given this, I would encourage all of us to base our decision on common sense. This is a single-family area. When Donna presented it, everywhere she went, it is single-family here, single-family there, and there. We look at it and it really presents a problem because of the uniqueness of the land and the fact that you can't get to it. I am an equine Veterinarian, and that has not a lot to do with anything, I suppose, other than the fact that we take an oath, and the oath is 'do no harm', simply put it means that you do not compromise an already compromised situation. I would like that standard to be used here and I certainly appreciate the time you have allowed us and ask for your consideration. Thank you."

GAROFALO "Are there any questions of this speaker? Thank you. Next speaker."

GINGER STECK "My husband and I have lived at 180 Hillsdale in Park East Subdivision for approximately 8 years. I am the mother of a 7 year old and I came today not thinking I was going to talk at all, but when I hear all of the things people say, I just want to reiterate a couple of points. When we bought our house, we expected that this property across the street would be single-family dwellings also. When I look at the property and the way that it is slated already, he referred to a church going in on the north part of 143rd, but there is property for sale just south of that that he said was going to be developed into residential, but there is no guarantee there either. We could be right back here in a couple of years doing the same thing we are doing right now with that small strip of property. So to state that it is going to be developed into residential, I think is a misnomer.

The property south of us, the Springdale Lakes property, has a lot of beautiful lakes and that is why it is called Springdale Lakes. Timber Lakes is the same. Around Wichita, lakes are a very luring aspect of any residential subdivision. I would recommend that we take this as an opportunity and turn it into a residential area with numerous lakes, which would help the Springdale Lakes and Timber Lakes subdivisions, remedy their problem with the watershed of the Spring Creek area and the Seven Mile Creek, too. I think that I will restate that there has been no proven need for a light commercial area in our neighborhood. We are serviced by Wichita and Andover as well. I see, if this is developed as light commercial now, while Kellogg is accessible, then five or ten years down the road, we have just been annexed into the Wichita City limits in the last couple of months, and I read or saw on TV that they have moved the city limits and the Kellogg Flyover and Kellogg expansion just purchased or are in the process of purchasing property that came clear out to K-96, right? Just recently, within the last year. I heard that because they were held up with the Magdalene project that they went ahead and bought out to here. Well, we are just in the next stage. (Indicating) They have bought it out to hear and it is not going to be that long before they buy out, and we don't have an entrance onto Kellogg, so you are going to have a lot of commercial property here without a way to get to it is what I am saying. Then all of the reason that they might buy in this area will then be gone. It will just evaporate when you can't get to it from Kellogg. That's all. Thanks."

GAROFALO "Any questions? Thank you Ma'am. How many more speakers are there? Please raise your hands. Two more? Okay."

BILL MAGYAR "I live at 801 Spring Hollow Drive in Springdale Lakes Second Addition. The bottom line, real quick, we are being asked to pay the price for Mr. Lusk's development. To suffer the degradation of the water quality as well as the run-off that will occur in the lakes in the communities that we live in.

This is a 15-year project, we heard them mention. We have a lot of anxiety in this room right now over this project starting. What kind of anxiety can we all be expected to live with over the next 15 years as we see one after another after another different project come under that property that doesn't enhance any of the values of any of the properties in the neighborhood. Money talks, but I certainly hope that you people will listen to the voices of the community."

GAROFALO "Thank you. Are there any questions of the speaker? Okay. Next speaker."

PETER OSSI "I live at 221 Hillsdale. Everybody has said everything I wanted to say. The flooding, the limited access, and in the future no access off Kellogg. It will be an interstate, a limited access highway and I don't want any Quik Trips in my neighborhood. I don't want any Taco-Ticos. I don't want any McDonalds and wrappers blowing around. I have seen it happen where I came from. Thank you very much."

GAROFALO "Are there any questions of the speaker? Thank you. Is there anyone else? Did we leave anyone out? No other speakers? Okay, then, the applicant has two minutes for rebuttal. Good luck."

SMYTHE "Thank you. There was a lot of concern raised, I guess, in terms of traffic and the flooding issues. As in any development, we have to abide by all of the current rules and regulations, FEMA, the State, the County and the City, and we will do that. We have no problem with that. In addition, there are some questions about water quality, those kinds of issues, and we discussed that with some of the homeowners' we met a couple of weeks ago. There are a lot more regulations that apply now through NPEDS permits that I think would help as this development occurs that the downstream water quality certainly shouldn't get any worse than it is today.

We fully realize that we are in a water shed that takes in the north part of Raytheon. We are just in the middle of the bottle, so to speak. You go as far north as Central and you have Raytheon coming down this part of the watershed, hopefully meeting

the Cowskin or Four Mile Creek south of us. So we are all part of the same water basin and we are all going to do what we have to do to make sure that all of the current rules and regulations are complied with. That is part of the process of the platting and zoning process that we are going to do today.

Traffic. We spent a lot of time on traffic. That is why this thing has been deferred two or three times by this body here itself, trying to analyze and trying to figure out what is a reasonable solution to the constraints that this property has on it. The constraints again, are Kellogg, the intersection and the bridge. I truly believe that with the phasing that we are talking about that those things can be mitigated to the best possible way and allow this property to develop according to the Comprehensive Plan, according to the plan that has been in existence for years, fully realizing that in my opinion, this is not a very conducive piece of property to back up housing to US Highways that at some point in time will be elevated to K-96 and that is currently elevated into the Turnpike Authority.

I think this is a good solution. Is our client happy? No. And I don't believe the homeowners are happy either, from the discussion, but I think this is a very, very good compromise in terms of what a more traditional commercial piece of property would develop at. I will stand for any questions."

GAROFALO "Are there any questions of the agent?"

PLATT "Will the owner go on record as agreeing not to oppose the closing of the intersection of 143rd and Kellogg?"

SMYTHE "I truly believe that that is out of our control. That is an issue that when we discussed it with KDOT, it is really going to be up to between KDOT, the City and the County."

PLATT "But will the current owner agree not to oppose it?"

SMYTHE "Yes."

LOPEZ "Kind of expanding on Commissioner Platt's comment, if access to 143rd Street is closed at Kellogg in the future, then the property is landlocked to the south, the property is landlocked to the west, and basically the property is landlocked to the north. Whatever develops there, the only traffic that will be able to get in and out of that property would be on 143rd, heading north. Is that a correct statement?"

SMYTHE "Can I clarify something, Richard? It is my opinion, based upon comments that we have heard from KDOT that the most likely scenario, and I understand that they are trying to predict what is going to happen 20 years from now, is that Kellogg will fly over 143rd Street, and that 143rd Street will dead-end right there into the fringe road, but that actually you will be able to go north or south on 143rd Street, you just won't have access to Kellogg at that particular intersection. So you won't have access to Kellogg at that particular intersection. You will still have the frontage roads taking you east and west along Kellogg, you won't have a dead-end 143rd Street."

LOPEZ "But the only access to that property, just looking at it, is off of 143rd."

SMYTHE "In the future, Kellogg turn-arounds that will be developed. For the first 15 years or so, until Kellogg gets improved, it will be at that intersection, and in the future, if Kellogg becomes elevated, like everybody thinks it may be, it will be potentially, as Jamsheed says, maybe half a mile down the road, it will do a typical Dugan turn-around like you see out west and then come back along frontage roads."

LOPEZ "Then that parcel conceivably could be zoned to develop all 'MF-29'? All of it could be, conceivably?"

SMYTHE "I'm sorry, I didn't follow you on that one."

LOPEZ "If the request has come in, instead of 'LC', 'LC', General Office, and that 'MF-29', the request could be to zone it all 'MF-29', isn't that right?"

SMYTHE "Would we request that?"

LOPEZ "Well, no, it could be, you could request it."

SMYTHE "Quite frankly, with zoning, anything is possible. One could ask for anything."

LOPEZ "Then would that increase the traffic flow on 143rd if that was the scenario?"

SMYTHE "I think Marvin could probably address that better. It would depend on the density of the multi-family and even the single-family."

LOPEZ "If it were to develop single-family with the same density just north of Park East, and I count 60 units in there, if that whole thing were to be platted for that density of 'SF-6', all of it, I mean the whole thing, as another option, that would be a lot of traffic dumping onto 143rd Street again."

SMYTHE "Correct, because that is the only access we have."

LOPEZ "So, no matter what, when it develops, there is going to be a substantial traffic impact along 143rd Street."

SMYTHE "One way or the other, correct."

OSBORNE-HOWES "Am I right that since it is not going to have any access to Kellogg and am I right, no access to K-96, it really is designed just for the neighborhood? It is not going to be that accessible."

SMYTHE "Can I back up a little bit? I don't think it has been determined that there will be no access to Kellogg. I think the discussion and the prediction of the future may be..."

OSBORNE-HOWES "You are counting on that, I assume, ultimately so you can justify this size of a C.U.P. At least that is how I see it, but we are saying that that might not happen, and if that doesn't happen, this just basically would serve the neighborhood. How accessible would it be if 143rd didn't have access to Kellogg?"

SMYTHE "Right now, with the configuration of K-96 on and off ramps, there is not enough distance between those ramps and what would be the traditional intersection of 143rd Street to allow it to happen. All indications we have had with KDOT is that the intersection itself would be half a mile east and you would do your typical 'Dugan turn-around', going underneath the road and work your way back on frontage roads."

OSBORNE-HOWES "So you are counting on accessibility from Kellogg?"

SMYTHE "Yes, to some degree, on the frontage roads."

OSBORNE-HOWES "And then my second questions, maybe you can answer it and it may have to be Marvin or staff, we have all been hearing that the application area is currently identified as commercial, but not all of it is, is that right? The eastern portion of it is not identified as commercial currently?"

SMYTHE "No."

OSBORNE-HOWES "It says 'identified the application area as commercial for all of the Meadowland area west of K-96 and most of the area to the east'."

SMYTHE "I think what is in question, Susan, is the north/south district that the Comp Plan, that is kind of behind you, there is a band along the north side of Kellogg and it is somewhat unclear as to how far north one could or should take that."

OSBORNE-HOWES "So really, the eastern part of it is residential?"

SMYTHE "No. From 143rd Street west, to K-96, there is a band of commercial."

MCKAY "In your application, you are showing 182-1/2 acres of ground, right? How many acres are north and west of the Turnpike of this 182?"

SMYTHE "I would have to look at the parcel."

GAROFALO "John, are you talking about Parcels 1 and 2?"

MCKAY "Well, I am looking at the parcels, but rather than add it up, I think I am going to ask them to give me this."

SMYTHE "Parcel 1 is 24.4 acres. Parcel 2 is 12.5 acres, and the reserve for those parcels is..."

MCKAY "So those two areas come off on 127th and don't come off on 143rd, correct?"

SMYTHE "Correct."

MCKAY "Okay. Next step. Of the balance of the ground, not counting the floodway and all of that, how many acres of ground are left over now that is actually being developed? I know it is a large area down through there that is in the floodway. Do you know approximately how many acres that is?"

SMYTHE "Without adding up individual parcels, I couldn't tell you, John. I do know that when I originally put it together, I came up with a percentage overall that 26% of our site was in reserve areas. So if you take 26%, it would be..."

MCKAY "About 36 acres?"

SMYTHE "Yeah."

MCKAY "Okay. Then my next question is, do we have DP-248 where you are going to put 'R-6'?"

SMYTHE "Yeah."

MCKAY "How many acres is that?"

SMYTHE "That involves Parcels 10 & 11 and doing quick math, it is 22.77 acres."

MCKAY "Twenty-two acres. Okay. So of the 182, 94 of it is either not on there or is single-family, or is floodway. Just roughly. So approximately half of the 182 acres."

GAROFALO "John, you didn't mean single-family, did you?"

MCKAY "No. Well, isn't the DP-248 single-family? I am talking about the piece up above. That is single-family."

SMYTHE "That is single-family."

MCKAY "What I was trying to do is...you know, we have had a big discussion about the traffic on 143rd, and a portion of this goes off of 127th. I am trying to figure out, in my own mind, about the traffic situation. You've got 22 acres of single-family, is that what you said?"

SMYTHE "No, twenty-two acres of multi-family in the request."

MCKAY "What is the single-family? That is what I want to know. What is the single-family?"

SMYTHE "In our C.U.P., we have no single-family. This is a commercial, multi-family C.U.P. (Indicating) This piece is not in our C.U.P."

MCKAY "All right. Okay, thank you. That is why I was asking. I was putting it in there."

MICHAELIS "I don't know whether you guys have time to do that, but I think that is important thing that John brought up, and that is how much of this whole thing is actually applicable to the traffic that we are talking about coming out on 143rd Street?"

And then, my next question may be for Marvin, or maybe for Jamsheed, you know, light commercial use versus single-family use as far as the number of cars?"

SMYTHE "Our request is 110 acres that exits out to 143rd."

MICHAELIS "On that 110, how much would the reserve be?"

SMYTHE "That does not include the reserves. We have 110 usable acres."

MICHAELIS "So if we had 110 acres of 'SF-6' versus 110 acres of 'LC', which is going to produce the most traffic?"

KROUT "There is no question that multi-family will generate more traffic than Single-Family; Office and motels will generate more traffic than multi-family and Commercial will develop more traffic per acre than any of those. So Commercial is going to generate more traffic. That is what the consultant assumed in his calculations that this was going to develop with 'X' hundred thousand square feet of commercial space. What he assumed was that it would be at a lower rate than the kind of rate that you would see at Towne East mall or some of the other shopping centers that were mentioned as analogous to this site."

The reason was because, I think, and we would agree, that not all this commercial is going to develop with high traffic generating commercial uses. The reason being that those highest traffic generating commercial uses are going to be looking for a site that has better accessibility than this one does. So there will be some natural attraction of uses that will have less traffic generation. An auto dealership actually has a pretty low traffic generation; much lower than a big box store, a department store or most retail stores. Mini-warehouses, hotels; those kinds of uses are going to generate a lot less traffic. So they assume a lower traffic than average retail traffic.

One of the things we did in this C.U.P., which we have never done before, is we are holding them, not only to a certain square footage, but also to generating no more traffic than the traffic that was estimated in the traffic study. Which means that, if they attract high generating traffic uses, they may not be able to develop to their full square footage they are asking for. There are two different caps that are there and that is unique for this C.U.P. How many trips per day are going to be generated and how many square feet. If they reach either one of those, then they are limited to that much development.

We know that Kellogg and 143rd are going to grow more traffic with or without this development in the future. Twenty years from now, both of those are going to be carrying more traffic. How much more should we assume, and what kinds of traffic improvements need to be made? That is why we ended up where we did. Commercial is going to generate a lot of traffic, but we think that the traffic study was pretty responsible, and our recommendations for limiting development at 38% and 70% of what they originally asked for, based on the traffic capacity and the traffic improvements, we will deal with that issue. This is one of the sites that we identified back in 1993 as an area for large scale, and in some cases, regional, commercial uses. Where else in the City do you have three freeways converging on each other? There is high accessibility, there are difficult access problems to a lot of the local area. But I think that over time those are going to have to be dealt with. There will eventually be an overpass. The access will be indirect but it will still be largely from Kellogg, and people will use it like they do over at the Dugan Center, using frontage roads and Texas U-turns to make their access."

MICHAELIS "Where I am trying to get with this is that the over resounding comment is traffic and the amount of traffic. But based on your analogy, what you just gave, I am having a hard time seeing if that would be significantly greater than what single-family would produce."

KROUT "I think it would be significantly greater than single-family. An acre of single-family might have four units generating about 40 trips per day. An acre of commercial at about 30 trips per thousand square feet is going to generate about 300 trips per acre. So it is a significant difference, but we are saying that based on the traffic analysis, and with improvements, and with staging and caps, we think that we can deal with that problem."

GAROFALO "Is that 30% and 70%, does that include the multi-family, or just the commercial? Because if you add multi-family in there, a whole bunch of units in there and then you compound the situation even greater than just commercial."

KROUT "I think the way the multi-family was handled was that we did assume that there would be some development in our model before this request came in. It was more than just the single-family. So the multi-family is considered part of the background traffic in the analysis, so it was assumed that something like that was going to happen. We added commercial onto that."

GAROFALO "So the 30 some per cent restriction and the 70 some per cent does include the multi-family?"

KROUT "It takes into account the multi-family."

MCKAY "Based on the map up there and the map that I have here, which is just the same, we are showing from the K-96 Highway exit to 143rd it is zoned commercial. How far north does that commercial go, Marvin?"

KROUT "Well, when we do the Comprehensive Plan, we just identify what we think is maybe a typical strip of land that would be suitable for commercial development, so it is probably 800 to 900 feet deep. In this case, it looks like it may be 1,000 or 1,300 feet deep, so they are asking for some more. On the other hand, they are taking out a bunch of land that is in the flood plain. I think that when you get down to the detail, whether it should be 800 feet deep or 1200 feet deep, you have to look at all of the details of the site and the traffic study to try to determine where exactly should that line be. The Comprehensive Plan is not meant to be a so parcel specific."

MCKAY "No, I understand that. But it was identified and I didn't know whether it was a quarter mile up, 800 feet or what."

KROUT "Probably 800 feet that we expected to be developed, for larger parcels for more than just small pad sites."

GAROFALO "Let me ask Terry, since your applicant is looking at the area just to the north where it is marked unplatted here, as single-family. What would be the potential of limiting the commercial aspects and bringing that down farther where you have 'MF-29' and bring single-family clear on down there and kind of put a little more limitation on the commercial zoning?"

SMYTHE "Are you talking about taking the line and dropping it down further south a certain distance?"

GAROFALO "Yeah. Clear down where you have Parcels 12, 13 and 11 and 10. Bring it clear on down. That is just a thought."

SMYTHE "Part of the concern that we had when we first put together some drafts on this thing was how you get people out to 143rd Street and how you try to either line up or have a good separation between existing entrances over in Park East. As much as I don't want to raise the east side of the street that happened a couple of years ago, there was great discussion about how that frontage road would tie into 143rd Street. So part of the reason why we are up as far as we are is because that makes more sense, in my opinion, from a traffic standpoint to tie that intersection together with a light and not have them offset every 150 feet."

WARREN "I have listened to all of this, and I am certainly very concerned about the people who are here and have voiced their opinions, and obviously we are going to take all of that into consideration, but as I look at this, you kind of turn around and reverse and start thinking 'what maybe should this land not be'? And as I hear more discussion here about single-family, I am looking at major thoroughfares at 127th, 143rd, a tremendous highway of US 54, and two other interstate routes, and I think it would be suicidal to think in terms of single-family here from the standpoint of just investment. I just don't see this land as being up-scale single-family as much as maybe we would like to have it. I assume we would have to look at the market."

I have heard the concern about drainage, and of course that is going to have to be covered, and will be covered whatever this use is, whether it is single-family, multi-family or commercial, it will have to be covered in the platting stage.

Traffic obviously has been a concern, but I would say that when we think about the best use of this land, and that is what we have to be concerned with; the man has a constitutional entitlement to use his land. I would think that it would be multi-family or it would be commercial. I don't see it as single-family at all. I'm not so sure, if I were living in that area that I wouldn't rather have commercial, and as Marvin has suggested, commercial in many cases generates less traffic than a lot of other uses. I think I would rather have it than I would multi-family, personally. With dense growth, I think multi-family could create just as many problems as commercial could. So, looking at it as land use, and with all of the other things around it, I am having a hard time seeing that land being used for anything other than commercial."

GAROFALO "Are there any other questions? Okay, then we will bring it back to the Commission."

WHEELER "I have a question of Marvin or staff. The issue was raised in terms of drainage, and I guess I just want to re-verify more to the people attending that that will be highly engineered, I assume, by both staff engineering, private engineers, and County engineers."

KROUT "This will be primarily the City Engineer who will look at this case, because it is in the City. The improvement district to the southeast is in the County now and I think they will both, therefore, take a look at it. The criterion will be that this development cannot result in more runoff than it does under pre-development, and that will be engineered during the platting stage. If this zoning were to go through and property owners have concern about drainage, we would be glad to give the homeowners' association a courtesy notice so that they can review when the plat is filed what that engineering looks like and see for themselves whether or not it is adequately taking care of the drainage issues."

Someone made a comment that the whole basin ought to be studied, and I agree with that. There are some limitations when you take a case-by-case basis and deal with drainage problems and you are not looking at the whole drainage basin. Eventually we do need to be looking at that whole drainage basin and developing whole management plans like we are doing for the Cowskin Creek. So we can't ensure that we are going to make the problem any better, but it is going to be the obligation of the City Engineer to assure that this development won't make the problem any worse.

The last thing I should say is that, although drainage is a concern and I understand that, we recently had a court case at 135th and Central where the Courts overturned a City Council denial of a case where the decision revolved around drainage concerns, and they said that that was not an issue to be reviewed at the zoning stage, but an issue to be reviewed at the platting stage. So I would advise you that drainage is not the kind of criterion that you can use at this time to decide yes or no about this zoning case."

JOHNSON "Along with that, Marvin, this 182-1/2 acres could have come to us in 6 or 7 different zoning cases. In that case, when it becomes a platting issue, they wouldn't have the opportunity to look at this big area in a drainage situation. So that has to be a plus for everybody concerned. I have a feeling that what I heard where you have the C.U.P. where it is limited to what amount you can build until the traffic or the streets can carry it. I feel that staff has taken that into consideration."

If it isn't good commercial property and you can't get access to it, somebody probably wouldn't ever build anything there so it would just stay the way it is, whatever it is zoned on a piece of paper. I can't see that being an issue. I know that the neighbors don't like it, but I think there has been a lot of thought that has gone into it. I think the applicant ought to be given thought for what he has looked at."

LOPEZ "If we go ahead and approve this and it advances on to the City Council, undoubtedly, I would think a protest petition would be filed with more than 20%, and then they will kick it back to us. This would probably be a good case for the new D.A.B. to cut their teeth on. I think we should consider referring this to the D.A.B. first. It is going to come back to us anyhow."

GAROFALO "I might make my comments. I kind of have reservations at this point because of another reason, approving such a large commercial development there. Although I understand that that may eventually be the best possible use for the land, I am concerned about the uncertainties related to the whole project area: the future access, the traffic congestion that doesn't seem to be solvable at this point; the bridge on 143rd Street; the fact that that may be single-family. More single-family is possible there. Then the 'MF-29' Multi-family thing bothers me somewhat because of the increased congestion that that would probably involve. Then the drainage thing, although as you pointed out again, Marvin, that we are not supposed to look at that at this point, but that is a concern. There is neighborhood opposition, too, and that is another concern of mine. I think maybe that I am willing to wait on this one to see what comes down the pike."

The uncertainty of US-54 and 143rd Street; the little dinky bridge over the Turnpike. All of that stuff just bothers me to go ahead and approve such a large development. I don't have any problem basically with what is west of K-96. I don't think we have heard much opposition to that, and much concern about that because it would be dumping out on 127th Street. That doesn't seem to maybe that much of a problem, but the rest of this bothers me at this point to know what, really is the best use of it is with all of these things hanging over it. So I am kind of reluctant, on my part, to go ahead and approve this at this time."

OSBORNE-HOWES "I think I started out with more reservations than I have now, although I don't know that I am 100% ready to vote on it. I liked Richard's idea of maybe sending it to the D.A.B. first because it is going to be sent back to us eventually. When I looked at this originally, I looked at the northeast part of it thinking that right now if you look at the Comprehensive Plan that it showed single-family, but when I look at this, I assume that this is their way of getting three accesses and entrances on to 143rd Street, which I am not sure they could do as easily or as well if they hadn't put some at least Neighborhood Retail in there. That is where I am right now."

CARRAHER "First I have a question. If this were to be sent to District Advisory Board, would it fall in District #2 or District #3?"

KROUT "District #2."

CARRAHER "I am in complete agreement with Commissioner Lopez. I think that is a good idea. That would be a good way to hopefully answer some of the questions or concerns that are currently unanswered, and I also agree with Commissioner Lopez that this would be a good case for that prospective D.A.B. to cut their teeth on."

In that respect, I would like to give the floor back to Commissioner Lopez if he is inclined to make such a motion."

LOPEZ "I wouldn't have a problem making that motion. This is going to come back to us anyhow. Marvin, is that an appropriate motion to refer this to the District Advisory Board?"

KROUT "I think you could make that motion. That means that it would be returned to you for a decision after they act. Dale is calling right now to find out when they would meet. Their regular meeting date is the first Monday of each month, which means that it would be April 3. I don't know whether they have a full agenda and whether they could take this case or not. I am told that they will make the third Monday of each month for special cases, so it means that chances are that the case would be deferred from 4 to 6 weeks if you were to do that.

You could also make a decision on this case, send it on to the D.A.B., and make sure that we have the discussion of the D.A.B. before it reaches the City Council. But if you are intending to get the recommendation of the D.A.B. before you make up your minds, then it will probably be four to six weeks before it comes back to you."

GAROFALO "I don't think that is a problem."

MOTION: That the agenda item be referred to the District Advisory Board in District #2 for review.

LOPEZ moved.

KROUT "Dale, do you have some information?"

MILLER "Yes, they say they can do it on April 3. They meet at 7 o'clock."

KROUT "They can hear it on April 3?"

MILLER "Yes."

WARREN "Is it the intent of your motion to try to get us more information than we have now, is that honestly what we are doing, or are we just shuffling this thing in an effort that we don't have to make a decision?"

LOPEZ "Well, it is going to shuffle back to us anyhow."

WARREN "I think we have enough information here to effect a decision. If it comes back to us, obviously it is going to come back to us with some recommendations by somebody else, and maybe that would influence another decision about it."

LOPEZ "My thought is that this is a large request, and as Commissioner Johnson stated, I think that it is great that they came with a large request in addressing these issues regarding drainage. I think this is a good example that we should be seeing all of the time. The concerns of the surrounding neighborhood, they are going to voice them anyway. They are going to get protest petitions and go to the City Council. Then what is the Council going to do? Send it back to us again, and they may send it to the D.A.B. Either way, the time frame has been extended, no matter what. If the D.A.B. can deal with it on April 3, which is the next week, why not get their input on it and let the community have a chance to express their concerns to the D.A.B. and then we get that feedback. You know, from the prospective of land use here, I think it is probably better than all commercial to have the 'MF-29'. I think it is a better plan, but there are issues also of traffic, whether it is all 'MF-29' or 'SF-6', there are still traffic issues. They aren't going away."

WARREN "That is really why I can't understand why we are going to shuffle it somewhere else. I don't think we are going to have any further information or anything that could better help us to effect a decision."

OSBORNE-HOWES "When we had the C.P.O.'s, for better or for worse, we did have some additional information. Right now we have heard from neighbors who are immediately affected by it and the idea behind it. The idea behind the old C.P.O. and the District Advisory Boards is that you have feedback and discussion among stakeholders who live in the area, but who may not be close enough to be immediately affected by it.

I still think that when I look at this, I don't know that I am ready to vote it. I don't know that I am against it, but I have some concerns about it. Oftentimes when we look at something of this magnitude though, we don't have it presented to us one day and then vote on it immediately, especially if it abuts up to single-family. A certain part of this, especially the northeast part of it does."

WHEELER "Part of my question has been answered, and the other is a comment. I guess I don't know what information we would get. We could wait until it goes to them and it is going to come back to us, and then it could still come back to us a third time, so I guess I am contemplating whether it makes sense to look at the issue three times. As I look at the plan, I have a concern about the amount of commercial and the access that comes in off of 143rd Street. I am looking at that we could move General Office and keep all of that south of that entrance line, but then if you reduce it more, a portion of the property is appropriate for multi-family, which keeps it residential, but it is also not what the neighbors would like to see.

I don't think that there is a timeframe that we can wait for KDOT's plans on Kellogg and over and under potential passes and what might happen in the future. I think sooner or later we are going to have to make a decision on how this works given what we know today."

MICHAELIS "I think, with all due respect to all of you in the audience, and I applaud you for taking the time to come here, but I think our goal is make these decisions based on a land use issue. I think that is the thing we have to keep in mind. Personally, I don't really favor shuffling it off on to somebody else, because we sit around here and holler at the City Council for doing that to us all of the time. So now we want to turn around and start doing that to somebody else? I don't think that is fair. I think if we feel that it is time to vote, then let's vote on it, but I don't think it is justified to send it on to somebody else."

PLATT "I will just second Commissioner Michaelis' comments."

MCKAY "I would like to third what Commissioner Michaelis said. I also agree with Susan. I have a problem with the fact that we are being told that until certain things happen with 143rd Street that the developer is limited. I guess I am a little confused what triggers what. I am talking about traffic counts. I do understand the traffic counts, but I am talking about presently they can put what on that piece of ground? And then what triggers them to do Phase II? Or Phase III.

I could see maybe getting access to K-96 Highway off of this piece ground. Also maybe somehow working something out for Kellogg. I don't know. So are they going to be able to develop 10 acres, 15 acres, 20 acres of this piece of ground before all of this stuff kicks in, or how many acres possibly are they going to be able to develop?"

KROUT "That depends on the kinds of uses that they attract. I think what we have to do now is to try to figure out what we know, and if it turns out that there be access on Kellogg or access to K-96 in the future and that would change things, I think that is when they would come in and ask to maybe amend the plan and give us some new facts so that you can judge differently. But right now, we had to look at the constraints in terms of being how much can you take when we know it is all going to come over 143rd Street. So what we said was: unless and until Central is widened to four lanes all the way up, including the bridge and up to Central, it should be limited to 38% of what they asked for, which is 380,000 square feet and 13,500 trips. That is No. 2 of the recommended conditions.

After that point, we are saying that it should be limited to no more than 700,000 square feet and 25,000 trips, which is about 70% of what they asked for on the portion of the property that is east of K-96. Now, you can have an auto dealership that takes 10 acres of land, but only occupies 40,000 square feet of space and only generates a third or a fourth of the traffic that a Target store generates. So, it is up to them to figure out how to attract the uses that allow them to maximize this site, knowing that they may have to reserve some land, or if they start to develop it with uses that don't generate a lot of traffic or have a lot of square footage, then they can use up more of it."

MCKAY "I remember when we did Bradley Fair, we had the same concerns of those neighbors and it was a whole half section of the C.U.P. It hasn't turned out too bad."

GAROFALO "Okay, we have a motion on the floor to refer this to the District Advisory Board, but I don't think there was a second."

OSBORNE-HOWES seconded the motion.

GAROFALO "Okay, we will vote on the motion, since we had enough discussion about it, I think. The District Advisory Board can hear this on April 3."

KROUT "For your information and the neighbors, that would mean that it would come back on the Planning Commission agenda on April 13."

VOTE ON THE MOTION: The motion failed with 7 votes in opposition (Michaelis, Wheeler, Platt, Johnson, Warren, Warner and McKay) and 4 in favor (Carraher, Lopez, Garofalo, Osborne-Howes).

GAROFALO "The motion fails. Is there another motion?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property surrounding the proposed development is vacant or in single-family use. The suitability of the subject property for the uses to which it has been restricted: While the property could be developed with low-density residential use, the presence of the major traffic corridors makes this a less desirable site for low-density residential use. It is also contrary to the Comprehensive Plan. Extent to which removal of the restrictions will detrimentally affect nearby property: Because of the buffering and the layout of the C.U.P., the development would not be expected to exert a significant effect on the character of the surrounding property. The major impact would be a significant increase in traffic. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the Comprehensive Plan. It supports the commercial strategies of providing auto-related commercial activities along Kellogg, having office warehouse uses along major arterials, and providing local-serving retail/commercial uses nearby residents. It also provides a mixed-use development, with the potential for utilization of natural wooded areas and walking paths to encourage residential living/shopping within walking distance. Impact of the proposed development on community facilities: The site will have a significant impact

on traffic. This would be mitigated by the improvements contained herein and the phasing of development to be timed with major transportation improvements that are not to be completed by the developer.) I move that we recommend to the governing body that the request be approved, subject to platting within one year and to the following:

- A. APPROVE the zone change (Z-3340) to "OW" Office Warehouse plus specific "GC" uses for Parcels 1-2; "LC" Limited Commercial for Parcels 3-9, 14-7, 20-23; "MF-29" for Parcels 10-11; "GO" General Office for Parcels 12-13; and "NR" Neighborhood Retail for Parcels 18-19.
- B. APPROVE the Community Unit Plan (DP-248), subject to the following conditions:
 1. The following transportation improvements shall be provided:
 - A. The applicant shall work with KDOT regarding geometric improvements at the intersection of Kellogg and 143rd Street. Dual left turn lanes with adequate storage lengths shall be constructed for eastbound-left turns and southbound-left turns. A northbound-left lane and a westbound-right lane with adequate storage shall also be installed. All improvement costs at this intersection, including changes to the signal hardware shall be the responsibility of this application.
 - B. 143rd Street shall be widened north from Kellogg to a minimum of four through lanes (two lanes north, two lanes south) plus additional turn lanes along the entire frontage of this property. The north terminus of this widened section shall be tapered back to the existing two-lane configuration.
 - C. Turn lanes on 143rd Street shall be installed as follows: a single left lane at the south street, dual left lanes at the main entrance (across from Cardinal), and a single left lane at the north street.
 - D. The intersection of Cardinal and 143rd Street shall be signalized with the following lane configurations: four through lanes on 143rd with dual northbound left and single southbound left lanes; three lanes on Cardinal to the east and five lanes on the west side of the intersection.
 - E. The applicant shall guarantee one-half the cost for accel/decel lanes and widening of a center turn lane on 127th, if these improvements are warranted at a later time by development of Parcels 1 and 2.
 - F. The timing of these improvements shall be coordinated between KDOT, MAPD, the City of Wichita, and the applicant, with particulars as to improvement schedule to be mutually agreed prior to action by City Council.
 2. Until such time as 143rd Street, including the bridge over the Turnpike is widened to four lanes between Kellogg and Central, development on Parcels 3-9 and 12-23 shall be restricted to no more than 380,000 square feet of maximum gross floor area and traffic generated from Parcels 3-23 shall be limited to no more than 13,500 trips per day generated.
 3. After 143rd is widened to four lanes between Kellogg and Central, development on Parcels 3-9 and 12-23 shall be restricted to no more than 700,000 square feet of maximum gross floor area and traffic generated from Parcels 3-23 shall be limited to no more than 25,000 trips per day.
 4. General Provision #18 shall be revised to eliminate halfway houses.
 5. A general provision shall be added to state that prior to issuing building permits, a plan for a pedestrian walk system shall be submitted and approved by the Director of Planning. This walk system shall link sidewalks along 143rd and between the proposed buildings and apartments within the subject property as determined necessary by the Director of Planning.
 6. Parcel 1 and Parcel 2 shall be revised to state, "Permitted uses shall be restricted to the following uses: all uses permitted in the "OW" Office Warehouse district; car wash; convenience store; funeral home; hotel/motel, medical offices; recreation, indoor; recreation, outdoor; restaurants; and service station. Site development requirements shall be those stipulated in the "OW" Office Warehouse district."
 7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 8. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 9. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

10. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-248) includes special conditions for development on this property.
11. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

WARREN moved, **WARNER** seconded the motion.

KROUT "Some of the late information we received had to do with what should the improvements be along 143rd Street in order to accommodate that first stage of development where 143rd Street isn't four lanes all the way to Central and the note we just got today is something we can't evaluate.

So the staff recommendations says build all of those improvements right away. That was the City Engineer's recommendation. The applicant wants to do something less than that in the first stage. We are willing to talk to them about some lesser improvements in the first stage, but I think we need to understand their study, their assumptions and how we got there. We would talk about that between now and the City Council meeting. We can't say right now that we understand an accept all of their numbers, but we will talk to them about it."

GAROFALO "Is there any other discussion? Let's have a roll call vote and that will make it clear."

VOTE ON THE MOTION: The motion carried with 9 votes in favor (Johnson, Wheeler, Osborne-Howes, Warner, McKay, Platt, Carraher, Michaelis and Warren) and two in opposition (Garofalo and Lopez). Marnell, Barfield and Hentzen were not present.

KROUT "That means that this goes to the City Council next, in about a month, and if you spoke you will get a notice of that meeting date. The City Council policy is that they rely on the testimony and the public hearing that occurs here and they don't open it up for an additional public hearing. But they will make the final decision."

GAROFALO "For the record, I want to make it known that my 'no' vote was based on all of the comments I made earlier."

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- 6a. **Case No. SCZ-0793** - Box Development, LLC, c/o Walter Morris (owner); Austin-Miller, P.A. c/o Tim Austin (agent) request zone change from "SF-20" Single-Family Residential to "B" Multi-Family; and
 - 6b. **Case No. DP-245** – Box Development, LLC, c/o Walter Morris (owner); Austin-Miller, P.A. c/o Tim Austin (agent) request the creation of Catamaran Cove Community Unit Plan on property described as:

A tract of land in the Northeast Quarter of Section 33, Township 26 South, R-1-W of the 6th Principal Meridian, Sedgwick County, Kansas, described as follows:

Commencing at the Southeast corner of said Northeast Quarter; thence S 89°32'08" W a distance of 60.00 feet to a Point of Beginning; thence S 89°32'08" W a distance of 1268.35 feet; thence N 00°02'29" W for a distance of 2592.20 feet; thence N 89°29'08" E for a distance of 451.51 to the Northwest corner of Lot 8, Block 1, proposed Hoskinson 2nd Addition, Sedgwick County, Kansas; thence S 00°07'35" W for a distance of 206.00 feet; thence N 89°29'08" E for a distance of 294.00 feet; thence S 37°14'41" E for a distance of 42.27 feet; thence S 03°39'56" E for a distance of 275.60 feet; thence S 00°04'46" E for a distance of 220.00 feet; thence S 08°16'47" E for a distance of 68.73 feet; thence S 18°44'14" E for a distance of 713.11 feet; thence S 43°08'57" E for a distance of 68.62 feet; thence S 24°27'58" E for a distance of 139.62" thence S 08°13'33" E for a distance of 141.85 feet; thence N 89°31'53" E for a distance of 120.00 feet to the southeast corner of Lot 1, Block 1, proposed Hoskinson 2nd Addition, Sedgwick County, Kansas; thence S 00°07'35" W for a distance of 794.05 feet to the Point of Beginning. Generally located on the southwest corner of 37th Street North and Ridge Road.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting the creation of a 58.3 acre development, named Catamaran Cove Community Unit Plan, for apartment development near the southwest corner of 37th Street North and Ridge Road. Parcels 1 and 2, comprising 26.5, acres would be zoned "B" Multi-Family, and the Reserve area, comprising 31.8 acres, would be zoned "SF-6" Single Family but be occupied by a lake (Drainage Reserve). The owner of the C.U.P., Box Development, L.L.C, is the same owner as DP-242 Ridge Center C.U.P. Together, these developments occupy an area that extends along Ridge Road for one-half mile south of 37th Street North, and is one-fourth mile deep. Ridge Centre C.U.P. was approved for commercial development last year.

Parcel 1 of Catamaran Cove is 6.95 acres is size and is located along the southern portion of the C.U.P. It is shown with one point of access onto Ridge Road, immediately north of the location where the Big Slough North that forms the lake in the drainage reserve flows under Ridge Road. Parcel 2 is 19.55 acres and has no point of access shown on the proposed C.U.P.

It is an interior parcel, bounded on the north and east by the Reserve, the south by Parcel 1 and west by property owned by a separate property owner, which also contains a lake.

Floodplain issues will be a major concern for this tract during the platting process. The boundary of the Drainage Reserve corresponds to the edge of the floodway on the Big Slough North. Approximately 75 percent of the land area in Parcels 1 and 2, shown as the parcels for apartment development, are within the 100-year flood boundary based on the 1986 FEMA Floodway map.

The applicant proposes that each parcel would be limited to 30 percent maximum building coverage and 40 percent floor area ratio. A setback is shown along Ridge that is irregular, due to proximity to the crossing of the Big Slough North. No specific setback is shown along the property lines, but there is a notation for a 5-foot wall easement. A screening wall six feet in height constructed of masonry would be required along the western property line where the adjacent property is zoned for residential use, as well as a landscape buffer.

The applicant proposes that Parcels 1 and 2 be permitted all residential uses allowed in the "B" Multi-Family District. The theoretical maximum allowable dwelling units requested by the applicant would be:

	Single Family	Duplex	Multi-Family	
Parcel 1	29		45	168
Parcel 2	101		154	944

It is unlikely that the applicant could approach the theoretical limits on conventional single-family or duplex style units due to the floodplain constraints on the property.

The applicant has not requested the maximum permitted densities allowed in the "B" Multi-Family District of 75 dwelling units per acre. However, achieving even the multi-family density requested, for a yield of over 1,110 dwelling units, would be extremely difficult given the constraint of the maximum gross floor area of 40 percent for the parcels. When comparing the maximum gross floor area of the parcels with the requested densities, the size of the units are quite small. The maximum per unit square footage of floor area for Parcel 1 is 720 square feet; for Parcel 2 it is 360 square feet. Further, when an apartment building is designed, all common areas, halls, covered porches, patios and decks, carports, etc. are included in the gross floor area calculations. Therefore, the actual square footage available for the apartment space decreases by at least ten percent in a typical project. This would result in unrealistically small apartment units. Likely, the developer would chose to build fewer units that offer more living space.

The applicant has not requested a specific height limit. The height allowed by "B" zoning is 55 feet at the minimum required perimeter building setbacks, plus one additional foot in height for every additional foot of setback beyond the minimum required setbacks.

The property to the south is zoned "LI" Limited Industrial and is currently being offered as "heavy commercial" property by its owner. However, in the past there was a proposal to develop this property as single-family. If so, then the wall and landscape buffer would be needed along the southern property line of Catamaran Cove. General Provision #16 prohibits windows directly facing a single-family subdivision to the south within 150 feet of the property line.

Signage would be limited to one monument style sign at the major entrance on Ridge Road.

The applicant proposes all parcels maintain a compatible architectural character, color, texture, but has not suggested language that they be of the same predominant exterior building material.

The site is located in an area that is undergoing urban development. The tract to the east, DP-237 Ridgeport C.U.P. is the being developed with a medical offices and is the proposed site for a new hospital facility for Via Christi. Housing, offering a range of densities and types is being developed in the area surrounding Ridgeport C.U.P. There is a multi-family tract approved for "MF-29" zoning that could yield a total of 229 units, plus a small pocket of duplexes, tri-plexes and four-plexes along Ridge. The balance of the tract is being developed as single-family.

The property immediately to the south of the application area is undeveloped; the remainder of the area to the south/southwest is developed residentially with Forest Lakes Addition. The adjacent property to the west is a large residential holding, consisting of a home and a lake. Further to the west, the property remains in agricultural use with scattered residences. The property to the north has been approved for commercial development, DP-250 Starwest C.U.P.

CASE HISTORY: The application area is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"; "LC"	Vacant
SOUTH:	"LI"	Vacant
EAST:	"SF-20"; "LC"	Vacant, under development (commercial, office and residential)
WEST:	"SF-20"	Residence with lake, agricultural

PUBLIC SERVICES: The property is located along two major arterial streets, 37th Street North and Ridge Road. Ridge was recently reconstructed to four-lane standards. 37th Street is still an unpaved county road. Traffic volumes along Ridge Road in

1997 were 7,717 ADTs (average daily traffic). This was projected to increase to 15,275 ADTs in the 2020 Transportation Plan, but this projection did not anticipate the volume of development occurring in the vicinity (Via Christi, Ridge Centre, etc). Improvements to 37th Street North and Ridge Road were included in approval of Ridge Centre C.U.P.

Because access from the site to Ridge and 37th is hampered by the floodway, the applicant has requested only one point of access onto Ridge Road. However, this would bring all potential apartment traffic onto Ridge and not provide a second point of access. As will be discussed later, a point of access onto 37th would be needed.

Water and sewer services are not currently available to the property. The applicant will need to guarantee extensions for water and sewer services.

CONFORMANCE TO PLANS/POLICIES:

The "Wichita Land Use Guide" of the Comprehensive Plan identifies this area for "agricultural". However, the continued northern expansion of urban development and recent widening of Ridge Road, the proximity of the K-96 freeway interchange, and the ultimate plan to extend sewer service to that freeway suggests that this area is becoming ripe for urban development.

The "Residential" objective is to encourage infill and higher density residential development maximizes public investment in facilities and services. Strategy (5) is to consider new requirements for medium and high density development which would involve development plan and architectural review to ensure compatibility with surrounding low density residential areas. The "Residential Locational Guidelines" that relate to this proposed application are:

- (1. & 2. Omitted because they do not apply to this case).
3. Medium-density residential may serve as a transitional land use between low and high density residential uses, as well as serve to buffer lower-density residential from commercial uses.
4. Medium-and-high-density residential areas should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and be in proximity to employment concentrations, major thoroughfares and utility trunk lines.
5. Medium-and-high density residential should be directly accessible to arterial or collector streets so that their traffic does not pass through less intensive land uses.
6. Medium-to-high density residential areas should be sited where they will not overload or create congestion in existing and planned facilities and utilities.

RECOMMENDATION: While the proposed site partially meets the residential locational guidelines for multi-family use, the scale of the proposed development exceeds the realistic ability of the site to accommodate the proposed density of use. Conceivably, higher densities could be achieved by relying on high-rise style apartment development. In this case with the large amount of the site in the flood fringe, the flexibility of going taller gives more flexibility to locate development outside the flood fringe.

The applicant has proposed only one point of access, on Ridge Road. This would create additional congestion on Ridge Road. Already, it is extremely difficult for residents living south of the application area to cross Ridge Road at 29th Street North during peak travel hours. The preferable situation would be to have a second point of access on 37th Street North, aligned with the major opening for Starwest or for Ridge Centre and channeling traffic to the signalized corner with Ridge. Along Ridge, the opening should be aligned with 34th Street North. This would require moving the opening northward 150 feet.

The use of this property for intense residential development would be in stark contrast to the single-family area to the southwest and the large acreage to the west. Further it is anticipated that the land west of the application area, when developed, would also be low-density residential. The presence of the lake on the site to the west offers a potential buffer for high-intensity residential use; but it should be emphasized that this land is in separate ownership and used as a private residence with a private lake, and is not included in the application. As proposed by the applicant, the buffer provided by this C.U.P. is minimal, a five-foot wall easement, the minimum required landscape buffering, and no provision for setbacks beyond the minimum required by the Unified Zoning Code. Although the residential C.U.P. provides a method to incorporate imaginative design to soften the points of impact between dissimilar land uses, this application has not incorporated such techniques in the proposed design.

Based on these considerations, plus the information available prior to the public hearing, staff feels that this request is excessive in terms of the realistic amount of residential development that can be accommodated on the site, given its access limitations and site constraints, and that development should be limited to single-family and duplex uses unless and until the property to the west is developed as multi-family, and a second point of access is provided to serve the property. Further, due to the constraints of the site, the number of dwelling units permitted should be limited to 500 dwelling units. Staff recommends the request be APPROVED subject to platting of the entire property within one year and subject to the following conditions.

- A. APPROVE the zone change (SCZ-073) to "B" Multi-Family, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-245), subject to the following conditions:

1. Development shall be limited to single-family and duplex uses unless and until the property to the west is developed as multi-family, and a second point of access is provided to serve the property.

If the conditions contained in Condition Number 1 are met and the property is developed for multi-family use, the number of multi-family dwelling units permitted on Parcel 1 and Parcel 2, combined, shall be limited to a maximum of 500 dwelling units. In the case that a portion of Parcel 1 or Parcel 2, or both, are developed with single-family or duplex units, the amount of multi-family units permitted on the balance of the parcel(s) shall be reduced commensurately by the amount of acreage in single-family or duplex use as a proportion of total parcel size.

1. No development shall occur until such time as municipal water and sewer services are provided to the site.
2. A point of access on 37th Street North, shall be provided, aligned with the entrance of Starwest connecting to the major opening for Ridge Centre C.U.P. The entrance shall provide a short right-turn southbound decel lane plus a through lane for inbound traffic, and a left-turn lane plus a through/right-turn lane for outbound traffic.
3. A Parcel Description for the "Reserve" area shall be added.
4. Parcel Descriptions for Parcel 1 and Parcel 2 shall be revised to reflect a total density of 500 dwelling units combined.
5. General Provision #4 shall be revised to state that signage shall be in accordance with Article IV of the Unified Zoning Code. Maximum sign height shall be no more than 12 feet above grade.
6. General Provision #14 shall be revised to state that parking shall be in accordance with Article IV of the Unified Zoning Code.
7. General Provision #18 shall be revised to state that if the Parcel 1 or Parcel 2 or both are developed with multi-family use, the multi-family buildings shall share uniform architectural character, color, texture, and the same predominate exterior building material. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas.
8. A general provision shall be added to state that prior to issuing building permits, a plan for a pedestrian walk system shall be submitted and approved by the Director of Planning. This walk system shall link sidewalks along Ridge Road and 37th Street with the proposed apartment buildings within the subject property and provide for internal circulation as determined necessary by the Director of Planning.
9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
10. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
11. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
12. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-250) includes special conditions for development on this property.
13. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area to the east and north is approved for commercial and office development, and some multi-family. While the tract to the immediate south of the application area is zoned "LI", the remaining land to the southeast, and south are single-family residential. To the west the land is zoned "SF-20" and is not in urban use; it is large lot residences or agricultural. If it were to develop, it would most likely be as low-density residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with a small number of residential units that would be similar in character to residential development to the south in those areas outside the floodplain area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north and west will seek to be developed more intensively. There are no natural barriers west of the Big Slough North to separate higher intensity commercial and residential use from lower density residential use, except for the lake immediately adjacent to the subject tract.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this area as agricultural, however, changing factors have pointed to the need to reconsider that designation, as discussed earlier. Medium density residential development is recommended as an appropriate buffer between low-density uses and commercial or high-density use. As proposed, this development would be high density instead of medium density and would not serve as an appropriate buffer. Medium-to-high density residential is viewed as appropriate along arterial streets and situated near commercial services and employment centers. This would be descriptive of the area when it is fully developed.
5. Impact of the proposed development on community facilities: The site will have a significant impact on community facilities. Unless the two access points channel traffic to signalized intersections, with the majority being directed onto 37th Street North, ingress/egress would be difficult for residents and it would create congestion on Ridge Road.

GOLTRY "This location is near the southwest corner of 37th and Ridge. Again, this is a lengthy staff report and I don't know if we have too many people here present to discuss it. I will try to do a synopsis of the staff report. The applicant is requesting the creation of a 58-acre tract for single-family duplex or multi-family uses. Actually, as you look at the site, you see that they have a large lake on it, so it is divided into three parcels. One parcel is the reserve tract with the lake and then there are two parcels, one a 6-1/2 acre parcel along the bottom here, which is Parcel 1 and they are recommending a maximum density of it around 24 dwelling units per acre for multi-family use.

Parcel 2, which is a land-locked parcel, is almost 20 acres in size and they asked for a density there of 48 dwelling units per acre. The third portion of the parcel, which has a very irregular boundary here is the reserve because of the old sandpit lake. (Indicating) This area, which forms the rest of the rectangle is Ridge Center CUP, which you approved last May.

The applicant requested a 30% maximum building coverage and 40% floor area ratio. When we looked at that in relation to the dwelling units that they had requested per acre, it looked like they were going to end up with a net density of way small units, so if you looked at how an 800-square foot apartment unit is an average unit size and building them on Parcels 1 and 2, about the maximum density they could effectively get with that 30% gross floor area and 40% floor area ratio, is around 500 dwelling units per acre. So, as you will see in our recommendation later for multi-family use, we have recommended that the density be capped at 500 rather than 1,112, I believe was what they could have theoretically gotten if they were to do the maximum number of dwelling units. That is not actually reducing it below what we would assume would be a realistic amount of development that they would get with realistically sized apartment units.

But there are a couple of other issues that we need to highlight. In between the subject tract and Forrest Lakes is a triangular piece of property that is zoned 'LI'. It is being marketed for 'heavy commercial'. I guess at one time, there was a plat for this for single-family, but that hasn't come to pass. Ironically, as one of the things I pointed out in the staff report is a great deal of the property that is under request today of this 58 acres is within the 100-year flood plain. There is also a lot of it that is within the floodway, but even if you get out of the floodway, you still have a lot of it within the floodplain. So, when they get into platting for this property, no matter what its use, they are going to have some substantial issues to deal with in terms of floodplain management issues and drainage issues.

Mike Popp, who is an adjacent property owner has submitted a letter for your review today. I believe it is on your desk and I will call attention to it and I will also will highlight this letter because Mike Popp, who is the most affected property owner on this case is unable to be here to attend the meeting today.

There are some smaller issues that I have highlighted in the background portion of the application, such as that the applicant has not requested a specific height limit and that the height limit that is allowed in 'B' zoning is 55 feet high, plus you can have additional height for every foot of setback. This may be one reason, although they don't need the density of 'B' they are requesting 'B'. That is because it would allow them to make a more compact high-rise style of development instead of spreading out, to develop more along the areas of a garden apartment or walk-up type of apartments.

In terms of public services, it is located along the two major arterials, which we have already talked about. Water is getting there, sewer is to get there, but isn't there yet, but they are working on that. In terms of conformance with the plans and policies, the areas that are identified as agricultural on the current adopted plan. I guess we have adopted a new plan now, so this would be out of date, but at the time it was written, it was correct, and as we know, there have been a lot of changes there and that is no longer an accurate recommendation, and the same statement we have made before about why.

So instead, I have looked at what the residential guidelines are to see how well does this application for high density residential fit into the guidelines that the Comprehensive Plan had for high density use. As I looked at Strategy 5, there were four of the six categories, and if you look at Page 5 of the staff report, you will see that items 1 and 2 are not there. In fact, I have had a question about that, what happened to those items. Items 1 and 2 of strategy 5, related to residential development guidelines didn't pertain to this property, so I have only highlighted the four that I felt this that particular application addresses and meets somewhat in terms of its land use, that it may serve as a transitional land use between low and high density residential uses, which is Item 3. Item 4, medium and high density residential should be located within walking distance of neighborhood commercial centers, park schools, public transportation routes and be in proximity to employment concentrations, major thoroughfares and utility trunk lines. Now, we would be hard pressed to say that they are going to be near parks, and we don't have any schools nearby, we don't have any public transportation routes, but we certainly are going to have employment centers in the form of Via Christi as well as commercial activities in the area, and that it should be directly accessible to arterial collector streets, it meets.

The medium density should be cited where it will not overload or create congestion on existing or planned facilities or utilities. I don't think it would cause a problem that way, so long as we have some transportation guidelines to make sure that we can handle the transportation problems. Therefore, our recommendation was that conceivably higher density could be achieved by relying on high-rise style apartment development in this case. With a large amount of the site on the flood fringe, the flexibility of going taller gives more flexibility. However, they only show one proposed point of access on Ridge Road. They are going to have to have a mandatory two points of access by Fire Department regulations regardless. But that issue aside, we feel that they should have, as a preferable situation would be to have a second point of access on 37th Street North. Furthermore, the intense use of residential development for this property hinges on it being well buffered by the surrounding land uses. If you consider the adjoining property-owner's land with a lake, who has submitted his letter and comments on the application today, if his property was included, you would have a very substantial buffer to stop or contain the multi-family use, which could be clustered in this area, which is the area that is out of the flood plain, and then you would have the potential for single-family development to the west.

Unfortunately, his property line runs right here (indicating) and so what we have recommended is that the property be restricted to single-family and duplex use unless there is a second point of access provided to serve the site and the property to the west be coordinated in its development with this property. That would be Condition No. 1, 'development should be limited to single-family and duplex uses unless and until the property to the west is developed with multi-family and a second point of access is provided to serve the property.

Furthermore, if we look at Condition 4 on transportation improvements, I apologize. I must have been asleep at the wheel. Not only did I drop a line out of that phrase, I didn't write it very clearly at all, and have circulated to both the applicant, but they just received it this afternoon, as well as to you. Some suggested substitute language which clarifies the transportation improvements we feel are necessary to in order to allow a 500-unit multi-family project to be entering in that place, not 37th but off of Ridge Road.

The others are more like technical requirements of the CUP, so I will skip them. Let's go through Mr. Popp's letter and highlight the issues. As I say, I would not normally raise his issues today. Is it more appropriate for me to do that today?"

GAROFALO "Donna, before you get into that, if you get into it, outline for me, because I am a little confused, as to exactly what is the parcel that we are referring to? Give me the outline of it."

GOLTRY "Right. (Indicating) It is this parcel, it goes over here, it comes down this way and follows along this side of the lake. It comes down over here and then picks up on Ridge Road, and follows down here. It crosses the little bridge, comes over to this corner and comes up this line right here."

GAROFALO "The property line, okay."

GOLTRY "And then it has three parcels. The one parcel is the lake, and then there is a landlocked parcel, Parcel 2; and then there is Parcel 1 across the bottom.

Mr. Pope, in particular, has requested that no matter what kind of use be made of this property, that he feels that he should have a 6-foot high screening wall. He would like to have that 6-foot wall in place no matter whether it is single-family, duplex or high-rise development because he has been living on this property and would request that buffer. That is one thing I would call to your attention.

A second thing is that he has been required to provide a 300-foot drainage reserve along his property in this area along the Big Slew North, and he is asking us why he was required to do that if the others aren't. I don't want to go into that deeper territory because it is a floodplain issue that I am not qualified to deal with. He has highlighted entrance and fire considerations, which I have already highlighted, and he has also pointed out that since we asked for only single-family and duplex uses, so long as his property isn't used for multi-family. Why zone it 'B'? And then, his last comment was 'why do we separate platting and drainage issues from land use issues, and we all know the answer to that question. I wish it had not worked out that he could not be here to represent himself because I am a poor representation for what he truly feel about the property."

WARREN "Can we see where his house is? Where he lives?"

GOLTRY (Indicating) "He lives right here."

WARREN "And about how many feet is it, I can't see on my little map. Is that an 80 deep? How deep does that say this property is from 37th Street back to the center of the property?"

GOLTRY "There is a good slide of that. His property is half a mile in length."

WARREN "Okay it is 80."

GOLTRY "Yeah, it is 2652 feet roughly. But narrow."

WARREN "And his use of that...the guy to the west, his use of that property is residential. How does he use that lake?"

GOLTRY "It is his private lake. He had a sand and gravel permit that has expired for the use of that lake, a Conditional Use. He used it and dredged it and now it is his personal lake."

GAROFALO "Are there any other questions of Donna? All right then, we will hear from the applicant or agent."

KIM EDGINGTON "I am with Austin Miller, here on behalf of the applicant. The floor area ratio that is included in this CUP of 40% is a built-in limitation basically to how many dwelling units are going to be possible on this property. At an average of an 800 square foot unit on Parcel No. 1 is a maximum of 151 units, which is 21.7 units per acre. On Parcel 2, it would be 425 total units with the same density. So with this 40% built-in, there is not the possibility of going to a true high-rise type development."

On access on 37th Street, we have not limited or eliminated any access on 37th Street and that is an issue that needs to be addressed at the time of platting. The Fire Department issue also. The initial phase of development is not feasible at this point, right at the beginning."

On Condition No. 2, like I said, we already have sufficient limitations on those number of dwelling units and our client is not wanting to nail that figure down to an exact number so that there is some flexibility to let the marketplace determine what the proper square footage and size of those units."

On access, again we have already talked about this. The only other issue that we had concern with was signage requirements, that they should be per Zoning Code for 'B' zoning. We have talked to the property owner to the west. We were not provided with that letter. That was new information for us. He is using that lake right now as a water ski lake. He built that for his own personal use."

At whichever time that property to the west develops, it is highly likely that that will also be a higher density development because of the limitations on there. Of the 37 acres that he owns, a full 10 acres of that is the lake. I would be glad to answer any questions."

GAROFALO "You are saying that you would be agreeable to the access on 37th Street North?"

EDGINGTON "Well, we haven't eliminated providing an access at some point."

GAROFALO "So you are not in disagreement necessarily with that?"

EDGINGTON "Right. We don't disagree that at some point there should be access on this property to 37th Street."

WARREN "I am seeing a kind of diagonal line that goes there on the left side of the lake. What is the significance of that line?"

EDGINGTON "Are you talking about this one? That is the Big Slew North where it comes into that."

WARREN "I guess what I am saying is can you cross that with a road?"

EDGINGTON "Well, at some point, the access that would be a lot more feasible would be to bring some access across here (indicating). The property owner has been approached about acquiring that property. At this time, he is not ready, but realizes that that is something that is possible."

WARREN "I think what I am hearing though is that you are willing to take Parcel 2 and just put it now into limbo until something can happen with access?"

EDGINGTON "No, it would have access off of Ridge Road."

WARREN "Okay, and it would come through Parcel 1 then, and you would have an access through Parcel 1 into Parcel 2?"

EDGINGTON "Uh huh."

GAROFALO "Are there any other questions? Okay, Marvin has a couple of questions, I think."

KROUT "Why is the applicant not willing to provide access to 37th Street?"

EDGINGTON "He is willing to, but just not at this time, until some of the development starts occurring, and because of having to cross this Slew."

KROUT "Will he be willing to, if he builds more than 'X' hundred units, he would be willing to say that to build additional units, he would provide the access to 37th Street?"

EDGINGTON "Up to a certain per cent of development, is that what you are referring to? Above and beyond that? I think that is something that we would be willing to look at."

KROUT "And you are saying that you agree that because of the floor area ratio that it is not practical to build 1,100 units, but you are not willing to limit it to the 500 units, which is about the same as your calculation came out?"

EDGINGTON "Yeah, we just don't want to be absolutely nailed down to that number based on any changes that might happen, or any changes in the apartment market where smaller units become possible. Just at this point, we will leave that up to the developer whose business this is to build apartments."

KROUT "Is there any number between 500 and 1,100 that he would agree to?"

EDGINGTON "If so, I think we would want to eliminate the 40% floor area ratio."

KROUT "If all of the 500 to 1,00 units were coming out on Ridge Road, would your applicant agree to install a traffic signal to handle the 4,000 cars per day that would probably be generated?"

EDGINGTON "Well, at that point, I think he would be seriously looking at some access onto 37th Street."

KROUT "Okay. So that is recognizing that something short of 500 units needs to have more than one point of access."

EDGINGTON "Right."

KROUT "Okay."

WARREN "I would like to ask Marvin a question, maybe while she is still up there. Marvin, clarify again what you are identifying as a requirement on density for Items 1 and 2. I am kind of lost with you on that."

KROUT "On the 500, that comes out to how many units per acre net?"

GAROFALO "You are talking about Item 2 on Page 6, right?"

KROUT "Yeah."

EDGINGTON "About 24."

KROUT "Twenty-four units per acre, which is actually more than the 21.7 calculation that she made for Parcel 1."

WARREN "So they could have 21 units per acre on that Parcel 2?"

KROUT "Yes. We were recommending 24 units per acre on Parcel 1 and Parcel 2, which adds up to 500 units and they are saying that they want more flexibility than 24 units per acre. They want some higher number than that."

MCKAY "The density on 'B' is what, 70?"

EDGINGTON "Seventy-five."

WARREN "And Marvin, our purpose for limiting that is what we consider to be an inadequate access, is that primarily why that is being done?"

KROUT "Well, a combination of what would be a compatible use given the fact that you are probably going to have single-family at 70, so it should be a moderate density, residential, as opposed to 70 units per acre, but also based on the traffic capacity, and even with access to 37th Street and Ridge Road, we are starting to see a lot of approvals for commercial and medical uses and it will continue all the way up to K-96. To us, it is really critical not to load it all up on Ridge Road, where that is the only alternative, kind of like on Rock Road, and No. 2 to be a little bit cautious about how much density we are going to permit so we don't create another Rock Road situation."

WARREN "Could he put all of that density, we will say, to the south end of that lot and hold the rest of it so if he got approved later he could go ahead and go on out to 37th Street?"

KROUT "I am not even sure why there is a Parcel 1 and Parcel 2. Can you explain that?"

EDGINGTON "I don't really know."

TIM AUSTIN "Because originally when I looked at that, like Donna said, there was a preliminary plat. I initially thought it was single-family to the south; but it is 'LI'. There was intent to put a little bit of a buffer off of the south. That is why."

KROUT "Okay."

WARREN "Let me clarify this again. He could put a lot of density in the south end of that Lot 2 with the hopes that he could get another access out to 37th Street later, he could maybe come back in and try to increase that density, or maybe he could get the land to the west of him. Is that something that you could live with? This density whereby you would have control about where to put that density? Then you wouldn't have to spread it out over the whole thing."

EDGINGTON "Yeah, I think that is a good compromise. But we do want to just clarify that in the one condition it states that this be contingent upon how the property to the west develops. At this point, since we don't really know how or when that is going to happen, we would like to have that condition removed."

GAROFALO "Are there any other questions? Is there anyone else to speak, besides the applicant or agent, in favor of this application? Is there anyone here to speak in opposition? Okay, if there is no opposition, we will take it back to the Commission."

WHEELER "I have a question of Donna or maybe staff. The parcel to the south of this, is that currently zoned single-family, or is it 'TF-3'?"

GOLTRY "This one? That is 'LI'. It is the one that the subdivision plat was preliminary started...they started a plat for single-family and never followed through."

PLATT "I would like for staff to comment as to whether or not this application really meets the definition of a Community Unit Plan. For the applicant to say 'we don't know what we are going to do until something else happens to the west of us', it seems to me that they don't have a Community Unit Plan."

KROUT "Well, I think as Donna explained, that was the staff recommendation, if you are going beyond single-family or duplex, it ought to be part of some plan that combines with the west. Otherwise, it ought to be limited to lower density in this area. So, I do agree that this is not much of a plan that you have been presented with and not very well thought out. But the issue of what happens to the west was a recommendation of staff and it was supposed to have to do with compatibility of those two parcels."

PLATT "I think that is correct, but it seems to me that we have to put some pretty serious restrictions on anything besides single-family houses and duplexes, and a Community Unit Plan that says 'here is what we are going to do and here is how it relates to something else'. I don't see that giving him a carte blanche for anything he wants to do is going to work here."

KROUT "I think what we are saying is that it is an odd location to draw a line, so the tract is not well-planned."

EDGINGTON "Can I address why we submitted this as a Community Unit Plan? Our client was not required to submit this as a Community Unit Plan with this 'B' zoning; however, in order to 'clean up' this development and to provide the controls that we were going to inevitably be imposed through the Protective Overlay, which would be nearly identical to what we have before is here. That is the reason that was done, in order for the further development of this property to proceed smoother, have one document that would incorporate all of the restrictions and conditions on this property in a visual form in order for the future developers to be fully aware of the conditions and restrictions imposed upon this property."

WARREN "Marvin, whereby we have Parcels 1 and 2, and I, like you, am not sure, why, but would there be maybe some way that you could make a concession, provided that Parcel 1 stays the same? It has commercial on the south side of it. They could increase the density on Parcel 1 and retain this 24 acres on Parcel 2. What are you asking for Tim, on Parcel 1? Was it 1,100 instead of 500?"

EDGINGTON "Well, we realize that on Parcel 1 that theoretical density is going to be around 151 units, an average of 800 square feet, which is 21.7 dwelling units per acre."

WARREN "Could you live with that on that one parcel?"

EDGINGTON "Well, we don't want to limit it, with the 'B' zoning, the density allowed is much higher than that, so we are not going to limit to just that number."

AUSTIN "If I might, Commissioner Warren, the primary reason on why we didn't want to limit the units is because we inserted a gross floor area of 40%. That, in and of itself, is a limitation. But it does allow the apartment developer, when he comes in to build out the units, the flexibility of saying 'okay, maybe I will do a mix of some apartment at 500'. If you go 500 square feet per dwelling unit, your ratio can go up. If you do some at 800, it is going to be a little less. By putting in the 40% gross floor area, it is already a self-limiting deal. As Kim was saying, as an example, 800 square feet already limits it to 27.1 dwelling units per acre, but it will allow the ultimate end user to kind of determine that ratio of what he needs. I think we would all agree that there is not going to be 1,100 units at 350 square foot apartments in there, but it will let him kind of design it without putting that limitation of saying twenty-seven. Maybe they should have zoned it 'MF-29'; come back and ask for an adjustment. It just gives him that flexibility to adjust those apartment sizes without really restricting the development units per acre."

MCKAY "I think the question was asked earlier, either of Tim or Kim, staff's recommendation is 500 units maximum and you are not willing to accept that, so Marvin asked you about somewhere in between there. I am going to tell you that I am not going to be able to support 'B' on this piece of ground. It is too many units and too liberal."

AUSTIN "Well, in a way it is really not."

MCKAY "If you have 'B' on single-family, you are going to do 5.2 units per acre."

AUSTIN "We are not asking for single-family, we are asking for 'B' zoning. Sure, single-family houses are an allowed use in 'B' zoning. In 'B' zoning, you are allowed 75 dwelling units per acre. If that is too dense, then why is it in the Zoning Code? We

are asking for 48. We have put a gross floor limitation on there that we believe restricts it down to 27, you know, 25-30 dwelling units per acre. The gross floor area already limits that. The 500 dwelling units per acre, is it going to be five hundred 300 square-foot apartment, five hundred 800 square-foot apartments, or five hundred 1,200 square-foot apartments? We think the gross floor area is a better way to control that and gives them the flexibility and doesn't make a mixture of a different number of dwelling units."

MICHAELIS "I just want them to clarify that because I am thinking the same thing. I am thinking that the 40% is really more restrictive than what the 'B' zoning is by 27 versus 75. So that is already cutting it less than half of what the 'B' zoning does, but it does give them the flexibility to change the size of the building. Is that correct?"

EDGINGTON "Correct. That is the exact intention."

MICHAELIS "I think that is fairly restrictive in itself."

KROUT "I think that there needs to be some predictability in terms of the number of units for all kinds of planning purposes, and I would be flexible about the number, but I don't think that first, the 'B' zoning category is in there so that someone can just walk in and ask for it. The 'B' zoning category is in there because it was in there in 1923 and it is a hold-over. The only areas that we have zoned 'B' are within a mile or two of the downtown area. These zoning categories are not zoning categories that we used in suburban areas, even when we have done high density apartments. We have an 18-unit per acre and a 29-unit per acre density. I think that to ask for more flexibility than 29 units per acre in a suburban area, in an area that we have concerns about traffic in, is something that is not necessary."

This particular agent comes in, asking for the moon with no kind of plan at all, and not thinking anything through, and then they compromise with you on something that is in the middle between what is reasonable and what they are asking for, and I am just getting tired of it."

AUSTIN "May I address that comment?"

KROUT "That is up to the chair."

GAROFALO "All right. Go ahead."

AUSTIN "I think, Mr. McKay, if there is a way to compromise, I don't think the 500 dwelling units is a compromise. I think if we are looking at and getting focused on dwelling units, and we are showing 48, if we get down to like 30 dwelling units, or 35 or something that I think is a little bit more reasonable. I don't think that this wasn't well thought out. Typically, apartment zoning doesn't think about a gross floor area. I think it does show that we intended to be a little bit more flexible in how we approach these things instead of getting caught up on a numbers game."

The land use is appropriate for multi-family. The lake to the west won't be developed single-family just because of the limitations along these property lines. By the time you put a road in, the depth of your lots aren't going to be there, so I think it is very appropriate to be multi-family."

Kim was correct, the reason why we did it as a CUP was just to get around the game that we play by using Protective Overlays. Many of the conditions in Protective Overlays, it is the same thing as a CUP. The CUP makes a nice, clean document in terms of someone coming in and looking at the property and evaluating it, and if they have a nice presentation, the document is there, it is accessible by everybody, it is just a little bit cleaner way of going about our business, and that is why we did the CUP. We recognize that we didn't have to do a CUP, but I just think it is a little bit better way. If we can get down to 35 units per acre or something like dwelling units, but still keep the gross floor area to where we can keep some flexibility, I think that would be appropriate."

MCKAY "What percentage of this 19.5 acres are we going to lose for the flood area, drainage area? Do you have a building setback? You are showing a 300-foot wide area on the north end of this."

AUSTIN "Yeah, there is a 300-foot wide previously dedicated floodway reserve."

MCKAY "Of the 19.55 acres on Parcel 2, how many of that...?"

AUSTIN "About an acre and a half."

MCKAY "An acre and a half. Does that include the little piece up above?"

AUSTIN "(Indicating) Yeah, it would be this little part, John, that is right in here."

MCKAY "But there is a little piece up above."

AUSTIN "(Indicating) "Up in here? No, it does not include that, and we are currently not anticipating developing that. That is all part of the reserve."

PLATT "As long as we have Tim up here, I will ask him this question, how do you propose to get the Fire Department to approve a development like that?"

AUSTIN "I think what Marvin was proposing about maybe limiting a certain amount of development until access is provided to 37th Street, is because Mr. Popp was approached about a year ago about selling his land, but the price was too high. Because we recognize that this strip here isn't of much value as far as single-family residential, we envision that, at some point in time, we could probably come in through here, but barring acquisition of his property, we would probably have to incur that cost of crossing the Slew here and tying it in that location.

If we put 50%, or whatever we seem to find reasonable to give us time to continue this dialog, I think that would be reasonable, probably to do that. But that was what the thought process was, because we felt that this eventually would go to multi-family because it doesn't have much value otherwise, especially if we develop it in that way."

WARREN "Tim, it looks to me like maybe we are at some kind of an impasse here. Would this foul up this whole process of yours if this were to be deferred until such time that you and staff can get back together

AUSTIN "I don't have a problem with that either."

MOTION: That the item be deferred to the next MAPC meeting.

WARREN moved, **LOPEZ** seconded the motion, and it carried unanimously (10-0).

PLATT "I would certainly hope that they will come back with a limit to the total number of units. Without that, I will have a hard time approving it."

7. **Case No. CU-569** - Lloyd Kang (Applicant/Property Owner) City of Wichita, Municipal court (Dennis Morgan, Agent) request a Conditional Use to allow a General Correctional Placement Residence within 750 feet of "SF-6" Single-Family Residential, on property described as:

The north 100 feet of Lot 3, except the West 155 feet thereof, and the West 155 feet of Lot 3 and all of Lot 4, Ruth Addition to Wichita, Sedgwick County, Kansas. Generally located west of Bonnie Brae Street. North of Kellogg Drive.

BARRY CARROLL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The Municipal Court, City of Wichita, is requesting approval of a Conditional Use Permit in order to allow the continued operation of the Wichita Intervention Program (WIP) on property zoned "LC" Limited Commercial. The Williamsburg Inn, located at 8300 East Kellogg, was recently chosen as the facility to provide services for the WIP. The six-acre application area is located west of Bonnie Brae Street and north of Kellogg Drive (see map). The application area is currently developed and is the site of The Williamsburg Inn.

The Wichita Intervention Program (WIP) has been in operation since 1984. This innovative program was designed by the Municipal Court to provide short-term incarceration and education for first time Driving Under the Influence (DUI) offenders. The WIP is held on weekends from 5 p.m. on Fridays until 5 p.m. on Sundays. During the weekend, the participants receive 20 hours of education related to drinking and driving. A group facilitator and four to five guest speakers provide education. Two security guards are on duty during the weekend. There are 20-40 participants on each scheduled weekend. The program is held 40 to 45 weekends per year. The designated facility provides meals, lodging and a meeting room for participants during the weekend. The participants pay for their attendance at the program and are not permitted to leave the facility once the session has begun.

The WIP satisfies the minimum requirements for incarceration and education for first time DUI offenders. The program benefits the community by relieving jail overcrowding and reducing repeat DUI offenders. Since 1984, the program has been held in six different facilities. [The first facility was at Newman University, the next three in area hospitals and the last two were in hotels that subsequently closed.] Residents from the various neighborhoods near these facilities have made no complaints (that staff is aware of). Municipal Court staff is requesting a Conditional Use Permit so that the WIP may continue at this current location. The WIP began operation in The Williamsburg Inn during November 1999. There were five weekend programs before it was determined that a Conditional Use Permit was needed. Currently, there are no weekend sessions taking place. There have been no neighborhood complaints.

Lighting for the facilities is currently reflected away from any adjoining residential uses per zoning ordinance. WIP participants will park in the paved parking lot provided by The Williamsburg Inn.

Finally, under the existing Unified Zoning Code, a "General Correctional Placement Residence" requires a Conditional Use when in a "LC" Limited Commercial District that has single-family zoning located within 750 feet of the application area.

CASE HISTORY: The property was officially platted as the Higgins-Andeel 2nd Addition on April 25, 1974. Adjacent land uses are commercial in nature, except for property located to the north that is residential. Adjacent land is zoned "LC" Limited Commercial or "SF-6" Single-Family Residential. A gas station is located to the east, another motel is located to the west, a shopping center is located south of Kellogg and single-family residences are located to the north.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6" Single-Family Residential	Single-Family Residential
EAST: "LC" Limited Commercial	Business (Gas Station)
SOUTH: "LC" Limited Commercial	Business (Eastgate Mall)
WEST: "LC" Limited Commercial	Business (Motel)

PUBLIC SERVICES: The site has access from Kellogg Drive. Traffic volumes generated by this use are projected to be inconsequential when compared to the traffic volumes on East Kellogg (US 54). The average attendance per weekend is estimated to be 20-40 persons who are not allowed to leave the facility until the sessions are over. Water and sewer services are currently available to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains strategies concerning "public safety services which states that the City is to coordinate and consolidate the planning, design and implementation of new/existing facilities to maximize cost efficiency and public safety" and ... "to closely monitor all current detention facilities in order to meet future space needs in the county." The WIP will help eliminate overcrowding of the jail plus it is not cost effective for the City to construct a facility for weekend use only. The WIP is an example of a "public and private partnership" that ultimately reduces costs to the taxpayers while promoting public safety.

RECOMMENDATION: Since 1984, The Wichita Intervention Program (WIP) has been held in six different facilities. Residents from the various neighborhoods near these facilities have made no complaints about the WIP over the years. The WIP satisfies the minimum requirements for incarceration and education for first time DUI offenders. The program benefits the community by relieving jail overcrowding and reducing repeat DUI offenders.

Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The applicant shall obtain all federal, state and local permits.
2. The use of this site for a "correctional placement residence" shall be restricted to first-time DUI offenders, in which clients are in residence for no longer than three days; the maximum number of clients at any one time is 40; two security guards are to be present when the clients are in residence, and the program must be operated by either a City or County agency. The Conditional Use will have a three-year time limit. At the end of this three-year time period, the program will be reviewed by Office of Central Inspection staff. The lease may be either be terminated or extended if there are no problems.
3. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the area is zoned "LC" Limited Commercial and the adjacent neighborhood to the north is zoned "SF-6" Single-Family Residential. The character of the neighborhood is one of mixed uses with commercial uses on the east, south and west and single-family homes to the north.
2. The suitability of the subject property for the uses to which it has been restricted: The purpose of the "LC" Limited Commercial District is to accommodate retail, commercial, office and other complementary land uses. The site is currently operating as a motel and could operate as a motel without The Wichita Intervention Program (WIP).
3. Extent to which removal of the restrictions will detrimentally affect nearby property. The adjacent properties to the north, that are zoned "SF-6," permit single-family uses. A variety of uses are already permitted on the property that is currently zoned "LC" Limited Commercial. Minimal detrimental effects are anticipated from the proposed Conditional Use recommended for this request. The conditions placed on the request mitigate the prospect of a detrimental impact on adjacent properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The plan contains strategies concerning "public safety services" which states that the City is to "coordinate and consolidate the planning, design and implementation of new/existing facilities to maximize cost efficiency and public safety" and "to closely monitor all current detention facilities in order to meet future space needs in the county."
5. Impact of the proposed development on community facilities: With approval of this project, the projected impact on community facilities is minimal. Unless this project is approved, another location will have to be found. The WIP might have to be suspended, placing an increased burden on the jail. This proposed use would generate little additional traffic.

CARROLL "This is a request for a Conditional Use to allow a general correction placement correction residence within 750 feet of 'SF-6' Single-family residential homes, located west of Bonnie Brae Street and north of Kellogg Drive. The purpose is to provide short-term incarceration and education for first time 'driving under the influence' offenders.

To summarize, Municipal Court had contracted with Mr. Kang, who is here today. We also have Municipal Court staff here, as well, who operate what is called the 'Wichita Intervention Program' which is a program for first-time DUI offenders in this facility. Municipal Court staff was unaware that they did not meet the 750 foot minimum and at that point came to us and asked for a Conditional Use. There are two security guards on duty all weekend. The participants are required to pay for the program and they don't leave the facility. There is parking provided. The Municipal Court staff met with the Bonnie Brae Homeowners' Association Board about two weeks ago to explain the intent of this program. The recommendation is to approve this request, subject to the conditions that they obtain all Federal, State and local permits; that the correctional placement residence be restricted to only this program and any violation of this condition would render the Conditional Use null and void. I would be glad to answer any questions, or the Municipal Court staff could respond to any questions you might have."

GAROFALO "Is this in operation?"

CARROLL "Yes, it is."

GAROFALO "It is not vacated then?"

CARROLL "That is correct."

GAROFALO "And they are only going to be doing this on weekends?"

CARROLL "On the weekends, under close supervision. It is an educational program."

GAROFALO "Is that Saturday and Sunday, or Friday night, or what? Friday night they come in?"

CARROLL "Friday night through Sunday night."

GAROFALO "And the participants have to be there the whole time?"

CARROLL "They have to be there. There is a security guard with them. The participants are screened. They are non-violent offenders who have been just been arrested for DUI. So it is an opportunity for education, information about Alcoholics Anonymous, that sort of thing."

PLATT "I want to clear up your question. When you said is it in operation, did you mean it is being used for this program?"

GAROFALO "No, I was just wondering if Williamsburg Inn is an operating motel?"

CARROLL "Yes, it is."

CARROLL "I had read somewhere where they went bankrupt, or something."

MICHAELIS "Is this facility going in part of this inn, then? Are we taking part of this existing inn and using it for this purpose?"

CARROLL "That is correct."

MICHAELIS "So it is going to be like we are going to take a section, like this wing over here and that is going to be for this?"

CARROLL "That is correct."

GAROFALO "They reserve the rooms, I guess."

CARROLL "They are anticipating approximately 40 times during the year to run this program, if approved."

MCKAY "Wasn't the building, the hotel that the City owns just south of Kellogg on Broadway utilized, the top floor of that, for this type of purpose for a while?"

CARROLL "That is a good question. Over the 15-year period of this, there have been six locations. There was Kansas Newman College, three were in hospitals, the last two were in hotels and both of them went out of business."

Carraher left at 6:10 p.m.

KROUT "You approved a Conditional Use for the motel downtown for this very same use."

MCKAY "I was thinking that."

GAROFALO "Until they closed it, I suppose. Are there any other questions? Okay, thank you. We will hear from the applicant. The applicant has ten minutes."

DENNIS MORGAN "I am from Municipal Court Probation. I am here on behalf of the Court and the Williamsburg Inn. I would just like to emphasize a few pertinent points. The correctional placement residence will only be a correctional placement residence in a very limited sense of that term, I think. These are all very low-risk offenders. They are only there for the

weekend, they all have homes to go back to. They are all first offense DUI offenders and are highly motivated to get through this program and get on with their lives. Many of them this is the first time they have had any contact with the criminal justice system and they want to comply.

This program has been in operation since 1984. I think one thing in our favor is that during all of those years, as far as we know, there have been no complaints about this program from any residents in any of the neighborhoods. The people have all been well behaved and it is a very well supervised and well-run program. We feel it has been very beneficial to helping keep the drunk driver off of the road and provide education for first-time offenders. It is not to say that we are soft on crime. The court puts a lot of people in jail, but a certain segment of the population seems to benefit a lot from this kind of educational program. So I think it is a little misleading to think as these people as being in custody. The emphasis is not being in custody, and not on punishment, but on education. If the judges wanted to punish them, they put them in jail. So this is really an alternative to incarceration, although they do get two days credit under the mandatory sentencing guidelines when they complete this program. And it does save the cost of people staying in jail. I think it costs \$63 per day for people to stay in jail, which mounts up.

The people pay for the program themselves. It has been a very successful program over the years. I would be happy to answer any other questions about this program."

LOPEZ "This has been in operation since 1983?"

MORGAN "Since 1984 it has been in operation. I estimate that we have had between 12,000 and 14,000 people attend this program over that period."

LOPEZ "And how many times has it relocated?"

MORGAN "We have been in six locations and we have moved just because they have needed the space. We were first at Kansas Newman College and were in a dorm, and they just needed that dorm space. Then I believe that we moved to St. Joseph Hospital and the same thing happened, they needed their space back. Then we moved to Wesley Hospital, they needed their space, and we have just kind of moved on. Then the last two times we were in hotels and they both went out of business."

WARREN "Just as a matter of curiosity, Mr. Kang will be providing the facility only and you will be providing the program?"

MORGAN "Right. We conduct the program. They just provide the meals and the bed space and a meeting room for the participants."

GAROFALO "Are there any other questions of the agent? Okay, thank you. Is there anyone else here to speak in favor of this application? Is there anyone to speak in opposition? How many are here to speak in opposition? Four."

RAY HINDERLITER "I am the President of the Bonnie Brae Homeowners' Association, and live at 263 Bonnie Brae. I am not sure that you would classify this as in opposition. It may be more in favor, actually. I have some copies of the remarks that I would like to make.

When this first came up and we found out about it, the Bonnie Brae Board was inundated with calls, and all of them were from very concerned neighbors who were adamantly opposed to this proposal. I thought that we would be circulating petitions and would be in for a lot of stress and a lot of grief, but we tried to recognize the need the City had for the use of this facility and what they were trying to do. We asked Mr. Dennis Morgan and Edna Johnston of the Municipal Court to come to speak to us and to explain to us what they were doing, and answer some of our concerns and questions. To be quite frank with you, most of our concerns were answered in a positive way and I began to sleep again at night.

As a result, the Board of Directors of the Bonnie Brae Homeowners' Association has taken a position not to oppose the use of the Williamsburg Inn as a correction placement residence for the Wichita Intervention Program for first-time DUI offenders with the following concerns:

- 1) That the use permit be limited to this one program and that the court or any other agency not be allowed to expand or change this program into any other court or law enforcement program. In other words, we want to be assured that the 'camel's nose under the tent' concept is not employed here.
- 2) We would like to be assured that the Williamsburg Inn would be monitored and to make sure that the fence for which they are responsible between Bonnie Brae and the Inn be maintained appropriately. In this past, this has not happened. In fact, some of our residents have repaired the fence themselves. We really want them to take their responsibility and to be good neighbors, and we feel like this is very reasonable. That this is what they should be doing, especially with this kind of a program that that becomes even a greater concern to us. We want to be assured that this will happen.
- 3) It seems that the trash, over the period of years and recently, has accumulated there on the premises. It should be picked up and disposed of properly and in a timely fashion. We understand that possibly there has been some budget restrictions on that motel, not having a lot of income, but this is one thing that they could do, I believe, that won't cost them anything. Just to get out there and do it and keep it cleaned up.

I respectfully submit this to you and if these concerns can be accommodated, then the Bonnie Brae Homeowners' Association Board would not oppose the requested Conditional Use permit. Do you have any questions?"

LOPEZ "Have you met with the applicants about these concerns?"

HINDERLITER "The individual neighbors have, the Board has not. And mostly to not too much success."

LOPEZ "So if these concerns aren't met to your satisfaction, you are not in support of this?"

HINDERLITER "That is correct, sir."

LOPEZ "And as far as you know right now, they have not been met to your satisfaction?"

HINDERLITER "Not to this point."

LOPEZ "This board deals with the zoning. Marvin, can we make these part of the Conditional Use?"

KROUT "The requirements for screening and maintenance are in the zoning and the health codes already, so you are asking an issue of enforcement and there is nothing that this Board can do through this Conditional Use except through the minutes to express to City Council that they want to see improved enforcement of those regulations. I think it is possible that they can do something about your other comment through the Conditional Use, which is to be more specific limited to this particular type of program. It is a little bit loose in the wording now and it probably could be more specific."

HINDERLITER "I came here with the direction from the Board. Personally, I think this is a good thing that the City needs to do, but we are also concerned about, and maybe you could answer this for me, can they use this, can this be turned into any other kind of program other than what they are asking for without it coming back to you people?"

GAROFALO "No. We can limit that."

HINDERLITER "That would take care of the first concern."

KROUT "Right now, I think it is a little more open, but it can be limited."

GAROFALO "We can do that in the Conditional Use permit. Let me just ask, is the owner or operator of the Inn here? Sir or ma'am, would you come up here for a minute and I will ask you a question?"

MICHAEL KANG "I am the owner of the Williamsburg Inn since last February 26, 1999."

GAROFALO "Can you address this man's concerns about the fence and the trash?"

KANG "Yes. I was notified about a month ago that the fence was not properly built. That is why we went out to look at it to see how they wanted to put the fence properly. So right now, I think we have fixed it properly. It was about two weeks ago. It is done. It is a new wood fence, what they wanted before."

We haven't heard any complaining from the neighbors at this time. If we hear more complaining, we are willing to fix it, to repair it correctly immediately, or as soon as possible."

GAROFALO "And the trash?"

KANG "On the trash, we have two maintenance men; we have two housekeepers cleaning between the fence and our back parking lot every day except when it is bad weather. We clean the trash in the morning. If my neighbors are not happy with that, I will check it out immediately tomorrow morning."

GAROFALO "Okay, thank you. Mr. Hinderliter, maybe you can get together with Mr. Kang."

HINDERLITER "Yes. I think that based on what he has said, and taking his word for it, then, if you would put that in the minutes, then we would not oppose the use of this facility for this Conditional Use permit."

GAROFALO "We can take care of all of that and straighten that out with the Conditional Use permit. Are there any questions of the speaker? Thank you, sir. Is there anyone else who wants to speak in opposition? Step up to the podium and state your name and address."

RON HOLE "I live at 8315 Peachtree. If you wouldn't mind, I would like to show you where that is (indicating). It is right behind this two-story building that you saw earlier. That is within 10 foot of my property. I brought my family. I have two boys, and I wanted you to see that they are my priority. It is for their safety. That is my priority in this. We have sat here for a long time and I wanted you to see what my priority is in this issue. I work with Mr. Kang and have been working on this fence issue for at least a year and a half."

When this zoning thing came about, the fence issue got resolved. That is how that got resolved. I have been working, trying to get it. The zoning requires that he provide screening between my property and his property. Before he owned the hotel, I tried

to work with that owner and get the posts replaced that were rotted off. I have made repairs to that fence and now I have a new fence, but if you look at the previous screens, there is one of those that is a view of the rental property that is nothing more than a 3-foot chain link fence. That is the screening that is provided between the homeowners in that area and that hotel today. If it hadn't been for me talking to Mr. Kang and Central Inspection, I don't believe that it would have gotten done.

Once this zoning gets passed, Mr. Kang may not have any interest to keep this maintained because he is getting his desired results. He is getting those people in there to make him money. That is my concern. I've got that fence now put up, but what maintains it. How long will this permit be good for? I would like to see that permit not last for a very long length of time, as well as I want that wording more strong on Page 4, Item 2. I don't think that addresses what we are putting in that hotel very well. I want it limited to the program that I heard from these people from the DUI area. I think that will be acceptable. But a correctional placement facility can mean a lot of different things. I have grave concerns about my family's safety in that area."

GAROFALO "As I said, we can limit it in the Conditional Use permit. About the fence and that sort of thing, we can't deal with that. But I think you have some assurances from Mr. Kang and you said you have already worked with him."

HOLE "Up until this zoning thing became an issue, it was a battle to get anything done."

GAROFALO "But it is better now."

HOLE "As soon as this issue came up to where it was financially in his favor to put this in, then the fence got fixed."

WARREN "How many years have you owned your property?"

HOLE "I have owned it for six years."

GAROFALO "Do you have anything else, sir?"

HOLE "That is all I have."

LOPEZ "If you look on Page 4, Items 1,2, and 3, it says that any violation of the Conditional Use permit will render it null and void."

HOLE "Who authorizes that? Is it Central Inspection that says it is null and void, or is it this Board? If you are telling me that I can't resolve the zoning...the screening is zoning. How do I get number 3 to get into effect if I needed it?"

LOPEZ "You can complain to Central Inspection."

KROUT "Right. Central Inspection can send a notice that they have violated a condition and then the permit is null and void. The applicant would have the right to appeal that to the BZA on whether or not Central Inspection was correct in terminating the use. So there could be a public hearing, but that only applies to the Conditions 1 and 2 and not to the standard zoning conditions on fencing and screening and other things that are in the Zoning Code on maintenance. On those issues, Central Inspection has to use the enforcement mechanisms they have, which are to issue citations and take people to court if necessary."

HOLE "So you are telling me it is Central Inspection?"

GAROFALO "I have been working with them, trying to resolve this, and that is what it has taken and this zoning petition to make it happen. I didn't get an answer to the question of how long will this Conditional Use be good for?"

KROUT "Right now, it is for an indefinite period of time unless the Planning Commission decides to add a condition to limit the time frame."

HOLE "I would like to ask for that."

MCKAY "I would like to direct a question to Mr. Morgan. Mr. Morgan, there are a couple of concerns that this gentleman had. Is there any way that you could work with the people to kind of help this gentleman get some satisfaction? You probably have a lease agreement with them and you could very easily write in that lease agreement, two or three conditions that would help this gentleman out?"

MORGAN "Well, we have a contract and the contract doesn't really apply to those sort of things. However, I did, during this time that Mr. Hole wanted his fence build, he talked to me and I talked to Mr. Kang. I believe that although we can't directly, I don't think, get things repaired or improve relations with the neighborhood, I think the fact that we are there and we are a Municipal Court sponsored program, that the facility is getting additional income, I think having a program there will possibly improve relations between the Williamsburg and the neighborhood. I think Mr. Kang will be responsive to these people, maybe partly because we are there. I am not saying that he is not responsive now, but I think the additional income, for one thing, will help him out."

MCKAY "I am not trying to write your lease, but is there no way that you can put a clause in your lease to say that this property should be held up to standards to which you approve?"

MORGAN "I am not sure. That is an interesting question. I would probably have to talk with Purchasing or some one to see. Maybe the Law Department."

GAROFALO "That could apply to the rooms and everything else."

MCKAY "I don't think we can cause him to do that, but I would just like to use that. Maybe they might be able to."

KROUT "It will be in the minutes and we can send that to the City Manager's office."

WARREN "Just for the record, it is almost being implied here that Mr. Kang hasn't fulfilled his obligations. I have done business with this man. He owns a lot of property in Wichita. A lot of it is on south Broadway. It has been cleaned up tremendously from when he bought it. He has property out on Rock Road. I think this is a bad rap we are giving him. I think probably he is a guy you can work with. I think if they go to him, he will respond to them."

HOLE (From the audience) "He HAS been more responsive than the previous owner."

WARREN "Give him credit, then."

GAROFALO "Okay, thank you. Is there anyone else that wants to speak on this? Okay, come to the podium, state your name and address, please."

SAMMY HOLE "8315 Peachtree Lane. It was my husband that spoke earlier. I need to clarify one thing he said. The property has been in his name for eight years, not six. I was the one that initiated most of the contact with Mr. Kang, over the fence. When we first contacted him, he came over and looked at it and then he came back after I called the second time. His response, first of all was that he had no money and could not fix the fence. It was falling down, there were holes everywhere. At this same time, we found out later, this program was already going on in that motel and they had to stop because they realize that they had to have a special permit. But he had that income coming in and told us that he could not fix the fence.

Then, after we found out about this little program that was going on, when we contacted him again, knowing that we were probably going to object to this, he came over and said yeah, he would fix the fence. And they did come fix the fence. But in fixing the fence, they took some of our lumber out of my back yard to fix the fence. Now, I don't know about all of you guys, but I have a four-year-old and a newborn son, six weeks old, you probably saw them sitting back in the back corner. They came in our yard and took our stuff to fix the fence. Then, in November, my four-year-old son came to me with empty bottles of Jack Daniels, beer cans and everything else that are always being thrown over the fence. He also found prescription drugs that were back there. Who knows who was using those? He always brings them to us. But my concern is, until Mr. Kang realized we were going to fight this, he didn't have the money to fix the fence. Now, when he knew that we were going to have this issue, now the fence is fixed with some of our own material.

I realize that you are talking a lot of legal stuff that I don't understand, but my concern is that I would like to see this where this is brought up again in a year and where somebody takes a look at this program to see if it is functioning the way it should be. If you know ahead of time that in a year you are given a grade card, you work hard to maintain an 'A' grade. If you know you do not have to be graded ever again, and that you are just cruising along, you may not work quite as hard."

GAROFALO "Are there any questions? Okay, thank you. Is there anyone else?"

XURY HOLE "I live in Andover, Kansas. This is my son and his nice family. They live up here. I am not sure you guys visualize exactly what this is, but it is a gigantic two-story high motel that backs within 10 feet of his property line. The only screening is that little bit of a wood fence that years ago, the guy that built the house put this fence in and it has been allowed to fall down. But there is absolutely no screening on the hotel property at this present time. Any of the screening, this wood fence, part of it is on the property line and part of it is on my son's line. So there is absolutely no screening on this.

The previous owner planted a bunch of large evergreen trees for screening, but these are old and dying now, so they need to be replaced. But I would like for you to visualize this high of a motel with second story windows that look directly down on my son's property and right into the house windows. These windows are clear and are made to open. They contain no screens of any kind. This allows the occupants clear view of my son's back yard, especially on the weekends when they want to occupy their back yard. These occupants over there are going to be window-viewing them all of the time. They are going to be in a little bit of class, but the most that is going to be is going to be eight hours a day and the rest of the time they are going to be looking for something to do.

I sat on the Andover Planning Board a number of years and I believe their regulations are that the property with the higher zoning provides the screening. I would like to say that this hotel offers no screening whatsoever to any of those residents along Peach Tree Lane. Some of them have chain-link fence. My son was lucky, he had a six-foot cedar fence. I think this Commission, to be fair to my son, should require this owner to install proper and good screening. The best screening that can be advised. If they aren't going to screen these second story windows, I think they ought to at least lock them so they can't open, and possibly cover them so they can't be looking out. At least paint them, or do anything so that these occupants that we are going to be seeing there won't be involved in their day-to-day operations. That's what I have for you today, sir."

GAROFALO "Thank you. Are there any questions of the speaker. Is there anyone else? Okay, we will have two minutes for rebuttal for the agent or the applicant."

MORGAN "I might just mention that all of the participants in this program are either in class all day, they are in the meeting rooms in the evening. The only time they are even in their rooms is to sleep. The lights go out at 10:30 p.m. It is unlikely, I think, that they are going to be spying on the neighbors. But the problem that was mentioned, I suppose could be a problem no matter who was staying there, as far as that goes. That is all I have."

LOPEZ "Mr. Morgan, are you aware that right now, the use that is being utilized is an illegal use?"

MORGAN "It is no longer being utilized."

LOPEZ "A request to utilize it for this specific use would be an illegal use?"

MORGAN "I am not sure what you are saying?"

KROUT "When it was being utilized, it was not being utilized legally."

MORGAN "We had five weekend sessions before we were aware that this permit was necessary. When we became aware of it, we stopped the program and applied for the permit. I might mention that during those five weeks there were no complaints. They weren't even aware that they were there."

LOPEZ "Whether there were complaints or not, my question was, were you aware that it was an illegal use. I guess not."

MORGAN "At the time when it was going on, no. Certainly not."

LOPEZ "The court system wasn't aware of that?"

MORGAN "Oh, no."

KROUT "Let me talk a little bit about screening. The City and County Zoning Code here says that if the residential owner has screened his property, then it is not necessary for the commercial owner to screen his property, so screening can be provided any other way. If a residential owner takes down his fence or it falls down, then the commercial owner has responsibility to build a screening fence there, but if there is a screening fence that the resident built that meets the screening requirement in the City/County Zoning Code, the issue about privacy and the two stories and the ten feet, we have some different rules these that require some landscaping and deeper setbacks, but this was built under the old rules and as was mentioned, even without this Conditional Use, this is a condition that has existed for years and would continue to exist with the motel that is a permitted use. So I am not sure there is really anything we can really do in that regard. I would have a couple of suggestions for you by tightening up Condition No. 2."

MCKAY "I think this building was here prior to any of these houses behind it being built. In fact, I know it was. I would like to hear Marvin's suggestions for tightening up Condition No. 2."

KROUT "There already is a limitation on clients for residents for no longer than three days. The maximum number of clients at one time is 40. I would suggest that instead of you saying that the use of a site shall be restricted to first-time DUI offenders, and strike the rest of the sentence that says 'only those programs operating in a manner similar to the applicant's clients'. Restricted to first-time DUI offenders in which clients are residents for no more than three days, and the maximum number of clients at any one time is 40, and then also change it to 'two security guards are to be present when the clients are in residence', rather than when 'classes are in session'. Classes aren't in session for all of the weekend period."

MCKAY "This building has units facing the back and facing the front, or do they go all the way through?"

CARROLL "You are saying where is the program housed?"

MCKAY "What I am asking is are the units in this building, do they go from the front of the building to the back of the building, or is there a hall down the middle where there are some that face out and some face the other direction?"

KROUT "There is a hall down the middle."

MCKAY "Theoretically, most of the offenders could be put on the front side so they wouldn't even be looking over the back, is that correct?"

CARROLL "That is correct. There is an interior corridor."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Most of the area is zoned "LC" Limited Commercial and the adjacent neighborhood to the north is zoned "SF-6" Single-Family Residential. The character of the neighborhood is one of mixed uses with commercial uses on the east, south and west and single-family homes to the north. The suitability of the subject property for the uses to which it has been restricted: The purpose of the "LC" Limited Commercial District is to accommodate retail, commercial, office and other complementary land uses. The site is currently operating as a motel and could operate as a motel without The Wichita

Intervention Program (WIP). Extent to which removal of the restrictions will detrimentally affect nearby property. The adjacent properties to the north, that are zoned "SF-6," permit single-family uses. A variety of uses are already permitted on the property that is currently zoned "LC" Limited Commercial. Minimal detrimental effects are anticipated from the proposed Conditional Use recommended for this request. The conditions placed on the request mitigate the prospect of a detrimental impact on adjacent properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The plan contains strategies concerning "public safety services" which states that the City is to "coordinate and consolidate the planning, design and implementation of new/existing facilities to maximize cost efficiency and public safety" and "to closely monitor all current detention facilities in order to meet future space needs in the county." Impact of the proposed development on community facilities: With approval of this project, the projected impact on community facilities is minimal. Unless this project is approved, another location will have to be found. The WIP might have to be suspended, placing an increased burden on the jail. This proposed use would generate little additional traffic.) I move that we recommend to the governing body that the request be approved, subject to the staff comments.

WARREN moved, **MICHAELIS** seconded the motion.

GAROFALO "What about putting a three year limit on it or something."

WARREN "My motion is until such time as it is withdrawn. I am not going to put a limit on it. I don't see any reason to."

KROUT "It is a City/County operated program. You have heard that maybe they can help put some pressure on the applicant to maintain good relations in there and you can indicate that in your minutes."

MCKAY "I have a question of the applicant, Mr. Morgan. Do you have a lease agreement with these people for a certain period of time?"

MORGAN "We have a contract with them. It is renewable. They have two options to renew."

MCKAY "Is it three years or five years?"

KANG (From audience) "Three."

GAROLFAO "Is there any other discussion? We have a motion to approve, subject to the changes made by Marvin."

LOPEZ "I have a question for Marvin. Even though the facility was built before those houses were there, this restriction on distance and the zoning regulations were in place when?"

KROUT "How long has the 750 foot rule been in place? About three or four years. The previous administrators of the court did understand this and that is why they applied for the Conditional Use for the hotel, but there has been a lot of turn-over in court administration, and I just think that they weren't aware of this requirement."

MCKAY "This building was built either in 1964 or 1965."

LOPEZ "Yes, but still, that is within 750 foot and there are plenty of other sites in the City of Wichita they could look at. I am not going to support the motion."

MORGAN "Previously, the reason that we were unaware of this is that previously we were in a hotel downtown and this particular permit wasn't required, so it didn't come up. We honestly weren't aware of it."

WHEELER "With the changes, is there a time limit on the Conditional Use as the motion stands?"

GAROFALO "No."

MCKAY "I would like to make an amendment that we put a three year time limit. That is what the contract is with the people. Or let it run with the lease."

WARREN "They can get a lease without coming back here though, can't they?"

MCKAY "That's what I say, let it run with the lease."

WARREN "Well, the lease is apparently going to expire."

MCKAY "But if they renew it for another two years; after two years then it continues as long as they have the lease agreement with the court system."

WARREN "Okay. You are saying to amend the motion so long as they have a contract with the court system that it would be in effect?"

MCKAY "Right."

WARREN "Okay, yeah. I don't have a problem with that."

KROUT "That is going a little bit too far in making that a user. It is probably not a good idea. If you want to put a time limit on it, you can. That will mean that it will have to come back and there will have to be a 50% fee to pay for the renewal of the amendment. Otherwise, you could have no time limit. I think you need to do one or the other."

WARREN "Okay. Do you want a time limit of three years?"

GAROFALO "Wait a minute. Commissioner Wheeler had a question before we got into that."

WHEELER "The question I have is of Marvin. Can we do a three or five-year time limit that requires some kind of annual inspection like we do with some other Conditional Uses?"

KROUT "I understand that OCI is now doing regular inspection of Conditional Uses. So I think you can expect that that will happen regardless."

AMENDED MOTION: That the Metropolitan Area Planning Commission recommend to the governing body that the request be approved, subject to the following:

1. The applicant shall obtain all federal, state and local permits.
2. The use of this site for a "correctional placement residence" shall be restricted to first-time DUI offenders, in which clients are in residence for no longer than three days; the maximum number of clients at any one time is 40; two security guards are to be present when the clients are in residence, and the program must be operated by either a City or County agency. The Conditional Use will have a three-year time limit. At the end of this three-year time period, the program will be reviewed by Office of Central Inspection staff. The lease may be either be terminated or extended if there are no problems.
3. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

WARREN moved, **MICHAELIS** seconded the motion.

GAROFALO "Is there any other discussion?"

VOTE ON THE MOTION: The motion carried with 8 votes in favor (Platt, Johnson, Michaelis, Warren, Wheeler, Warner, Garofalo and McKay), and 1 in opposition (Lopez). Osborne-Howes, Marnell, Barfield, Hentzen and Carraher were not present.

8. **Case No. Z-3359** – Leland and Evelyn Gieseke (Owners/Applicants); Austin Miller PA c/o Tim Austin, Classic Real Estate c/o Christian Ablah, and In-Site Real Estate c/o Dan Unruh (Agents) request zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial, on property described as:

Lot 3, Block G and the North Half of vacated alley adjacent on the South, Westerlea Village, Sedgwick County, Kansas. Generally located on the southeast corner of Maple and Ridge (7125 W. Maple).

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-6" Single Family Residential to "LC" Limited Commercial on a 0.46 acre platted tract located at the southeast corner of Maple and Ridge (7125 W. Maple). The site is currently developed with a non-conforming dry cleaning business (Lee's Cleaners). The applicant proposes to combine the subject property with the two lots immediately to the east, the lot immediately to south, and the lot immediately to the southeast to create an approximately 2 acre parcel for retail development (see attached voluntarily-offered restrictive covenant).

The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for commercial uses. Property south and southeast of the site is zoned "SF-6" Single Family Residential and is developed with single family residences; however, both of these properties are in the process of being rezoned to "LC" Limited Commercial and are proposed to be combined with the subject property through replatting. Property to the west is zoned "LC" Limited Commercial and is developed with a Lowe's home improvement center. To the north is a strip commercial center, convenience store, and restaurant on property zoned "LC" Limited Commercial. To the east is undeveloped property zoned "LC" Limited Commercial, which is proposed to be combined with the subject property through replatting.

To buffer proposed commercial development on the subject property from residences to the south and east, planning staff is recommending that a Protective Overlay be approved to continue the development controls established during the approval of zone changes on the adjacent properties. This Protective Overlay would limit signage, lighting, and building height and require a six foot high masonry wall where adjacent to residentially zoned property.

CASE HISTORY: The subject property and the properties with which it is proposed to be combined have an extensive case history. The subject property is in the Westerlea Village Addition, which was platted August 11, 1949. The subject property contains the north half of a vacated alley along the south property line, which was vacated (V-1853) March 1, 1994.

On April 30, 1974, the Board of City Commissioners denied a zone change request (Z-1619) for "LC" Limited Commercial zoning on the subject property and the two lots immediately to the east. The two lots immediately to the east were again denied "LC" Limited Commercial zoning (Z-2715) on October 18, 1985, before receiving approval for "LC" Limited Commercial zoning (Z-3074) on December 15, 1992, subject to replatting (King's Maple Street Addition [S/D 93-60]), vacating the alley to the south (V-1853), and volunteering a restrictive covenant (Cov. 30) prohibiting various uses, requiring a six foot masonry wall along the south property line, and requiring berming and landscaping along Summittlawn.

The subject property was approved for "LC" Limited Commercial zoning (Z-3244) on September 9, 1997 subject to platting and a Protective Overlay limiting signage, lighting, and building height and requiring a six foot high masonry wall along the south property line. However, this zone change was not enacted and the case was closed due to failure by the applicant to plat the property.

The lot immediately to the south of the subject property was approved for "LC" Limited Commercial zoning (Z-3350) on February 8, 2000, subject to the dedication of street right of way and utility easement and a Protective Overlay prohibiting various uses; limiting signage, lighting, noise, and building height; and requiring a six foot masonry wall where adjacent to residential zoning. At the time this staff report was prepared, the zone change on the lot to the south of the subject property had not been enacted since the street right of way and utility easement had yet to be dedicated.

The lot immediately to the southeast of the subject property is proposed for a zone change (Z-3360) to "LC" Limited Commercial. The lot to the southeast is proposed to be combined with the subject property, and the zone change request for the lot to southeast is scheduled for MAPC review on March 16, 2000.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"	Retail, Restaurant, Convenience Store
SOUTH: "SF-6" ("LC" pending)	Single Family
EAST: "LC"	Undeveloped
WEST: "LC"	Retail

PUBLIC SERVICES: The site has frontage to Ridge and Maple, both five-lane arterials with a raised median preventing left turns into and out of the subject property. Ridge has traffic volumes of approximately 19,000 vehicles per day. The 2030 Transportation Plan estimates the volume for Ridge will increase to approximately 23,000 vehicles per day. Maple has traffic volumes of approximately 20,000 vehicles per day. The 2030 Transportation Plan estimates the volume for Maple will increase to approximately 25,000 vehicles per day. Municipal services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" uses; however, commercial zoning was recently approved for the subject property but was not enacted due to failure of the applicant to meet the conditions of approval. If the subject property is combined with properties to the south and east as proposed, the combined commercial property could develop as a "Convenience Center", which is defined by the Comprehensive Plan as a 2-4 acre site typically anchored by a mini-market with several other small-scale tenants that typically develop at arterial intersections. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting under the conditions of the voluntarily-offered restrictive covenant and the following conditions of a Protective Overlay:

- A. No off-site or portable signs shall be permitted on the property. No building advertising signs shall be permitted along the face of any building facing a property in a residential district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential areas. Light poles shall be limited to a maximum height of 14 feet.
- C. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- D. A 6 foot high masonry wall shall be constructed along any property line where a residential zoning district abuts the property.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for commercial uses. Property south and southeast of the site is zoned "SF-6" Single Family Residential and is developed with single family residences;

however, both of these properties are in the process of being rezoned to "LC" Limited Commercial and are proposed to be combined with the subject property through replatting. Property to the west is zoned "LC" Limited Commercial and is developed with a Lowe's home improvement center. To the north is a strip commercial center, convenience store, and restaurant on property zoned "LC" Limited Commercial. To the east is undeveloped property zoned "LC" Limited Commercial, which is proposed to be combined with the subject property through replatting.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single Family Residential which accommodates moderate-density, single family residential development and complementary land uses. The site is currently a non-conforming commercial use, indicating that the property is more suitable for commercial development than residential development. Extensive commercial development in the immediate vicinity and the property's location at the intersection of Maple and Ridge make this site undesirable for single family residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the conditions of a Protective Overlay which would limit signage, lighting, and building height and require a six foot high masonry wall along where adjacent to residential property. Redevelopment of the site with commercial uses will require landscaping per the Landscape Ordinance.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" uses; however, commercial zoning was recently approved for the subject property but was not enacted due to failure of the applicant to meet the conditions of approval. If the subject property is combined with properties to the south and east as proposed, the combined commercial properties could develop as a "Convenience Center", which is defined by the Comprehensive Plan as a 2-4 acre site typically anchored by a mini-market with several other small-scale tenants that typically develop at arterial intersections. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized by replatting which should require dedication of street right-of-way and access control along Maple and Ridge. Other community facilities should not be adversely impacted.

KNEBEL "In interest of the hour I will be brief. I do want to go over a few issues. Agenda items 8 and 9 are related to one another. They are separate ownerships, but the intention of the individual owners is to combine their properties through a plat to develop the property based on a site concept that was handed around. The applicant indicates that the large user would be a Walgreen's drive-through similar to the ones that you have seen at other commercial corners around the City.

The two properties that are in question, this property here (indicating) is Item No. 8, and this property here is Item No. 9. They are both requested for Limited Commercial zoning. Staff has recommended approval for both, subject to some conditions that are based on the long history of commercial zoning change requests and denials and approvals, etc., in this area. I am available for any questions."

GAROFALO "What is the situation with Parcel 4?"

KNEBEL "Parcel No. 4 has recently been approved for Limited Commercial zoning, subject to a set of conditions, one of which being the dedication of street right-of-way and utility easement. Those have not been completed, but once they are, the ordinance will be published and it will be zoned Limited Commercial. That is this parcel right here."

GAROFALO "So that whole back will be involved in whatever project."

KNEBEL "Yes. Basically north of this line would be as part of the project that is shown as part of the concept that you have at your table."

MCKAY "Can we take both of these cases at one time?"

KROUT "I think you can hear them both at one time and I think the speakers that are here are here to speak about both of them, so it would make more sense. You could divide your motion on them. You have several speakers here plus Items 10 and 11 after that. Are we going to lose a quorum at 6:00?"

Some discussion here.

KROUT "All right, we have 15 or 20 minutes."

MCKAY "Let's go. Take Frank's pop can away from him and let's get moving."

GAROFALO "Do we have a quorum? Okay. Are there any questions of Scott? Scott, I have a question before you go. The mention of the covenant, was this supposed to mention restrictions on use?"

KNEBEL "No, the use restrictions are handled through Protective Overlays. The covenant deals with platting the properties collectively. The reason that staff was interested in that and the reason that the applicant offered it was to prevent any access to Summitlawn, which is a residential street. All of the access would be to Maple and to Ridge Road, which are arterials."

GAROFALO "But the Protective Overlay doesn't mention anything about restrictions as far as use?"

KNEBEL "Not on Agenda Item No. 8; only on Agenda Item No. 9."

GAROFALO "Why wouldn't it on Item No. 8, too?"

KNEBEL "Item No. 8 is a parcel that is located immediately at the arterial intersection. The others are more interior lots."

GAROFALO "All right. We will hear from the agent now."

TIM AUSTIN "I am with Austin Miller. We are basically in agreement with staff's comments, subject to that site plan. The only thing that we would request different because it is a Walgreen's is that I think staff is recommending a 25 foot height limitation on this parcel because of the layout. The tower that is over the entry door is 30 feet 1 inch, so for at least Parcel 3 we would like for that to be 30 feet because it can be administratively adjusted for the 1 inch. That would be the only change on that."

Then just for your knowledge, I think if Scott handed those out, on the covenant because Walgreens, after the deal was finalized early this week, wasn't taking the whole thing. We were going to change the covenant to read, on the first whereas where it talks about 'whereas the properties were being assembled for a single commercial user', we were going to change that to 'being assembled for commercial use', and then on the first paragraph, where it talks about being collectively platted as one lot, we were just going to strike that as one lot because as the site plan indicates, we would plat it as two lots. Or I guess we could say that they could be collectively platted as two lots. Other than that, I think we are in agreement with staff's comments."

GAROFALO "Are there any questions for Tim?"

KROUT "Is Lot 9 in Case No. 9 on the second lot, or is part of Lot..."

AUSTIN "The way the site plan lays out, the second lot would be about the south 3/4 of Lots 4 and 9. So it would be roughly in here (indicating)."

KROUT "Okay. The reason I say that is because on No. 9 there was another recommendation that we had on sound amplification systems on Lot 9. I know you have this case at 13th and Waco where we have a sound amplification system limited as part of the drive-in window for Walgreens in back, so you would want to be able to keep a large portion of Lot 9 for them."

AUSTIN "Yeah, if you look at that site plan, that lot line, if that sound speaker was on the building it would be excepted out of Lot 9, but on some of those additional drive-through lanes, I guess that could be a possibility conflict that we would need to adjust."

KNEBEL "Actually, the whole sound system would be in it because your application is for the southern half of the vacated alley."

AUSTIN "Oh, okay. So we would need to address that, then."

GAROFALO "Are there any other questions? Thanks, Tim. Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition? Two people? Three people altogether?"

Man from the audience "There are more than that."

GAROFALO "There are? Okay, raise your right hand if you are going to speak. I only see one more. Okay."

GEORGE WEAVER "I live at 401 South Summitlawn Drive. I am strongly in opposition to the rezoning here. I have lived here for 46 years, at 401 South Summitlawn Drive, which is three houses down from Lot 9. At the present time, there is all kinds of traffic coming by there in the afternoons from Leer Jet, cutting through University, going over there. Traffic is backed up all the way past Taft to US 54 between 2:30 and 3:00 in the afternoon."

But that is just one concern. When I bought this piece of property, it was zoned residential in there, and this has come up, if you notice on your information there, about every ten years. They will want to put in a Quik Trip, a Sonic or something like that, and this area is just clear up to here with all of the traffic, the trash, the health, the crime from Taft and over on Maple. I have a petition here. There are 113 lots in that area. I got up a petition protesting this and I have 71 people who have signed it and the rest of them that didn't sign, I had three no's besides the people that want to rezone."

They are talking about tearing down two houses here, right back of Lee's Cleaners. These are nice homes, nice residential homes, and they are good taxpayers and we have had it up to here. Here is my petition with 71 signers. I also have some pictures here I will show you of your protective wall that you promise you are going to build. Go over back of Wal-Mart and look at all of the trash along there. It is there every morning. This one lady, Mrs. Ferris tells me that she goes out in her front yard

every morning to pick up the trash. So we don't need this. We don't need any more commercial on the corner of Maple and Ridge and we don't need to tear down a couple of houses to do it.

The protective wall, here it is, right next to us. It has graffiti all over it. Here is one with some more of the graffiti. I will put those up here for you.

Now, I would like to know, someone here asked me, if you do approve this, what is going to be put on Lots 4 and 9? Can anybody tell me that? And the other question I have is we didn't know what was going in there until just a few moments ago when they brought the plat out. They told us there wouldn't be an access from Ridge Road over to Summitlawn and now they are showing a drive through there. And if you will notice in your literature on Nos. 8 and 9, they said that that alleyway was going to be closed and there wouldn't be any access onto Summitlawn. We found that out here just a minute ago through that one folder.

There will be traffic, trash, noise, you name it, and then rats, a health problem. The word was out that they are going to put a restaurant in where Lots 3 and 9 are. They want to tear those two houses down and put in a restaurant. Then they said a convenience center at the corner. That is all I have."

Johnson left the meeting at 6:05 p.m.

GAROFALO "Are there any questions of the speaker?"

PLATT "Will you show us on the map where you live, sir?"

WEAVER "Sure will. I live right here, have for 46 years."

WARREN "Where is the International House of Pancakes that just went in there?"

WEAVER "It is south of there, the pancake house is. That is a quiet neighborhood over there."

GAROFALO "Okay, sir, your time is up unless we have some questions for you. Are there any other questions? Do you know what is going in there now?"

WEAVER "No, I do not. My question is what is going in on Lots 4 and 9 where the two houses are that are going to be torn out."

GAROFALO "The agent can respond to that when he has his rebuttal. Is there anyone else to speak? Sir?"

TODD LARSON "This is my wife Karen, we live at 338 South Summitlawn Street. Our property is the one that will be facing the proposed retail establishment. The first thing I would like to do is to say thank you for taking the time to listen, not only to me, but to the concerns of almost everybody that lives in the Westerlea Village.

As property owners in this area for the last 7 years, we have seen a number of changes, and not all good. Our neighborhood is older and well established with large yards, big trees and attractive well-kept houses. These are the features that first attracted us to the area. It had a feeling of almost being in the country. Then the changes began. The first big change came to our south with the building of the Dugan Street shopping district. With that we noticed more traffic, noise, lights, gang graffiti and crime.

The second big change came to the west with the construction of Lowe's Home Improvement Warehouse. Again an increase in traffic, noise, trash and more accidents at the corner of Maple and Ridge. Following that, to the north, was a development of a restaurant, the Outback Steak House. Again an increase in traffic, noise, trash, etc. I can now see all of the signs and lights associated with each of these businesses from the front of my yard. My home no longer feels or makes me feel like I live in the country. The concerns we have about this project are many, but I will narrow it down to the most important.

First is property value. If this retail store is developed, my property value will certainly decrease. As certain as my property taxes increase, my property value will certainly decrease. That will be a real challenge if we ever decide to sell our home. Will we ever get the top dollar out of our house? Probably not. And who wants to buy a house directly across the street from a retail store and maybe a restaurant. I certainly wouldn't. It would be a hard property to sell. My question is how are we ever compensated for this? Why aren't we compensated in some way for having to look at this and deal with the problems associated with it. Why is it that the only compensation goes to the families that are bought out and paid well to move and not have to worry about it.

My second concern is the traffic. The numbers here tell a story on a daily basis. There are 19,000 vehicles per day on Ridge Road. There are 20,000 vehicles per day on Maple Street. We have certainly seen an increase in traffic accidents over the past five years at the intersection of Maple and Ridge. We have also seen an increase in the number of vehicles using University and Summitlawn Street to bypass the congestion at Maple and Ridge, especially during the peak traffic hours. As the parent of two small children, this concerns me greatly. We don't need any more traffic, especially on Summitlawn.

My third concern is the trash. George spoke briefly of it. The pictures that he showed you I think explains it well. Trash along the fences and in the yards of our friends to the south. Trash from the west and trash from the north. We don't need any more trash.

My fourth concern is crime. Crime is another issue here. Another retail store will just open the doors for more crime to occur. Along with crime come the gangs. Again, Mr. Weaver has pictures of this gang graffiti to our south. I don't want it and I don't need it. At this point, I really don't see a need for another retail store or development at this location. My understanding is that as of today that it will be a Walgreen's and one other store. There is nothing that a person needs from Walgreen's that they can't get from Wal Mart just a few short blocks away. Every need that I have can be met by driving no more than 5 minutes in any one direction from our home, if it is for clothes, food, hardware, insurance or a good restaurant, it is all right there. We have a petition that has been signed, voting against this proposal by over 70 residents who care in this area. We have seen the effects that this sort of development brings and we do not want it. We hope that you will reconsider what they are proposing to do."

GAROFALO "Thank you. Are there any questions of the speaker? Okay. Are there any other speakers?"

WARDALE BIRCH "I live at 310 South Summitlawn. I will show you my property. (Indicating) I have these two lots here across from where they want to do the construction. I really can't add more to the speech than what my neighbor, Mr. Larson just did. He said everything that I needed to say. I am really interested in the value of my property being declined because of this construction coming in there. I understand where he is coming from, they just had twin babies. They are the youngest family that just moved into that neighborhood, it is a nice, quiet, and peaceful. By this coming in there, it could cause a problem. Thank you."

WARREN "You have two lots you say? Do you have Lots 2 and 3 out on Maple?"

BIRCH "Yes. Well, Lots 3 and 4."

GAROFALO "Okay. And do you live on one?"

BIRCH "Yes, I live on this lot and have a pool house on this lot."

WARREN "You have a rental house on the other lot?"

BIRCH "No, it is a pool in a house; an indoor pool. As you can see, I invested a lot into this place, and I would like to keep it that way. If the property value starts dropping, that is going to be a big problem."

WARREN "Have you always owned those two lots together. Did you buy them together?"

BIRCH "Yes. I have been living there for five years."

GAROFALO "Any other questions? Thank you, sir. Is there anyone else? Okay, then the applicant has two minutes for rebuttal."

TIM AUSTIN "Just to clarify a couple of things, Walgreens just signed the contract either Monday or Tuesday. When we first started assembling the property, our clients were actively pursuing Walgreens, but we didn't have a contract, and that is kind of why we didn't have site plans or anything ready until this week. I think it is important to re-emphasize that we have no access to Summitlawn. I appreciate the question of traffic, but it is going to be traffic that is being generated or passing through this area through the peak hours that really isn't related to this potential development."

I probably should just note that on the Protective Overlay on Lot 4, which is this one (indicating) already restricts it to no fast food restaurants, no drive-throughs. In that, subject to the dedication, the right-of-way is approved for commercial zoning.

The site plan, if you will note, has ten feet along the east side for a landscape buffer. We can put the screening wall ten feet into our side of the property line and add that ten feet out there. I know that my clients would be willing to increase the landscaping along there to make it less visible, more attractive."

WARREN "That is along Summitlawn?"

AUSTIN "That is correct. And probably just to re-emphasize, this parcel here was zoned two years ago and because the user that he had in time, his contract fell through, so Mr. Gieseke never platted it. So certainly this would be appropriate for 'LC' use and the way we want to assemble it and with the restrictions that we have, we believe that that is appropriate for that lot as well. I would be happy to answer any questions of Tim?"

WARREN "Did you say Lot 4 was already approved for commercial?"

AUSTIN "It is already approved for commercial, subject to a right-of-way dedication, and there was one other condition that they haven't yet completed."

WARREN "And Lot 3 already has a commercial building on it, doesn't it?"

AUSTIN "It has a commercial building on it, that is correct."

GAROFALO "Are there any other questions? Okay, thank you. We will bring it back to the Commission now. What do we want to do?"

WARREN "My concern is that if there is a house there, and I haven't really gone out and looked at that house, there is the possibility of that house starting to deteriorate, maybe a nice use like this would be better than a house that maybe wouldn't be kept up because its value is going to depreciate."

GAROFALO "I have one major concern, and I realize that there is already commercial there and it is all commercial on down, but I have a little problem with the further encroachment into what was a residential neighborhood, and still is. If this is granted, we might as well wipe out that whole square block and then you might as well wipe out across to the east, and then to the south. Where does it stop? That is my concern. It just seems like it is just going to keep mushrooming, kind of like car lots."

PLATT "I think I agree with you, and of course, we get ourselves in this bind by letting them put in the big box there on the corner, and it is then a question of how you deal with relating it to a residential neighborhood. There is no winning that, I suppose. I think I will support Agenda Item No. 8 in terms of the corner. That, I suspect, is a given and I think I am going to vote against No. 9."

WHEELER "I have a question, and maybe Marvin can answer this. On the site plan here, they show the potential Walgreens with the drive-through and then a future to the south. I guess I have a question of what would typically be the distance from that building to the, I assume residential to the south of this? Does this meet compliance?"

KROUT "No, this wouldn't be in compliance in a couple of ways. The compatibility setback requirement is 25 feet, so they would have to waive that. This looks like about 10-12 feet from the property line, so that is not in compliance. Also, they would be required to provide landscaping as well as a fence along that south line. That doesn't show at all on this site plan either. I think this is just conceptual, but they would have to move the building back and provide trees along that south line as well as a fence.

And then the applicants also agreed that they would continue that masonry wall along Summitlawn and I think at least 10 feet to the west of the property line, meaning that on the west side of that 10 foot landscape buffer."

WARREN "What is on Lots 1 and 2 now?"

KNEBEL "They are vacant but they are zoned commercial."

GAROFALO "That is where Walgreens intends to build?"

KNEBEL "There is the aerial. That is accurate."

KROUT "Those three lots are a little bit south of there."

GAROFALO "Yeah. Okay. So, then Lot 2 on item 9, that is for some future tenant?"

KROUT "Yes. The northern portion of that lot is needed by Walgreen's."

WHEELER "I guess as I look at the site plan, though, the purchaser needs the amount shown there, which actually goes into the south lot. So I assume it is apparent, or maybe we need verification from the applicant that it is not feasible for them to situate just on those north three lots. I am having trouble supporting an additional commercial building to the south. If there is a way we could buffer this and give the neighborhood some breathing room."

GAROFALO "Is that an alley that was vacated or something? What is that vacation?"

KNEBEL "Yes. There is a vacated alley between these lots."

WHEELER "Between those two properties, right?"

KNEBEL "Yes."

KROUT "From the aerial photograph, it looks like, and the applicant needs to tell you, but it looks like they need too much of a portion of that lot that goes into the house."

WHEELER "Uh huh. I mean the house is going to have to go, but I guess I question whether they need to build another commercial building."

WARREN "I look at it this way. What if we don't do this? We have commercial on Lots 1,2,3 and 4 as I see it. So you could already go out there on Lots 1 and 2 and build a little old building of some type. You could do that same thing on Lot 4. It would seem to me like maybe it would be a better use to go ahead and get a plan development here that has agreed to screen and to do some other things than it would be to let this thing hodgepodge in little bitty buildings. They can do that right now. I think this intended use may very well be better for the neighborhood than if we don't do it."

WHEELER "Can I ask the applicant a quick question?"

GAROFALO "Sure. Tim?"

WHEELER "Is it feasible for the purchaser to take all of the property that has been discussed in buffering to this neighborhood, or is it critical to the purchase that you be able to develop a second commercial property on this piece?"

AUSTIN "Really I think you asked two questions. For the parking they want and with the drive-through facility, they feel like they need the property to the south. The thought process was that they would like to build additional tenant space because of the economies of the land acquisition. I think your concern is valid. If you want to increase that setback to the south, that would certainly reduce the scale of that additional retail space. We just put this together, and you are right, I had it facing north. I was thinking about the 10 foot rear setback as opposed to a side-yard setback. I think that would be appropriate, maybe, to reduce the scale of that second building."

WARREN "Tim, it doesn't show it on this little drawing that was passed around, but I assume you are going to also screen between Lots 4 and 5 and 8 and 9?"

AUSTIN "Right. I think Marvin mentioned that earlier that there would be a solid, continuous masonry screening wall."

WARREN "So there would be a screening wall against Summittlawn and another one around on the south side?"

AUSTIN "That's correct. Along the east and south property lines."

MICHAELIS "Tim, would it be possible or conceivable to move that whole project to the north and take that north row of parking stalls and bring it down and put it on the south?"

AUSTIN "I think you could lose that, but I think it is with that drive-through canopy that is off to the south side of the building. I think it still encroaches into that parking area if I remember right."

MICHAELIS "I am just saying could we move the whole thing? I know a lot of the parking requirements are just due to the regulations and not necessarily a need so much. So, I was wondering if we could move the whole building to the north?"

AUSTIN "I can take another look at it. I think because Walgreen's has now signed the contract, if we want to revisit this later, we could do that."

MICHAELIS "I think if we could push it away from the residences and create more of a buffer between there and still give you everything you are wanting to do as far as the drive-in."

WHEELER "I would rather eliminate it on the east."

AUSTIN "Eliminate the parking on the east and maybe increase the landscaping or something?"

WHEELER "Yes. So you've got a good landscape buffer both on the east and the south to where you have residential."

AUSTIN "Okay."

MCKAY "I think what is throwing us all for a loop is the fact that they put this future tenant in there. I don't see how in the world they could put anybody in there."

WHEELER "Yeah. I don't know how in the world you could get a building in there."

MCKAY "I don't think you could put a building in there by the time you meet the requirements."

WHEELER "I guess I would rather see some fencing, buffering, landscaping and berming to give these neighbors some relief."

AUSTIN "I would be happy to revise the site plan and come back."

MCKAY "And do away with the second building?"

AUSTIN "I would have to ask my clients on that because I think with the numbers they were working, they might need it."

LOPEZ "When we dealt with the corner of Ridge Road and Maple sometime back with a cleaners, what was it zoned then?"

MCKAY "Commercial."

LOPEZ (Indicating) "Well right there is 'RR'. If that was a non-conforming use, why did we do it?"

KNEBEL "The zoning on the cleaners was approved, but the property owner did not meet the conditions of approval, so the ordinance was never published."

LOPEZ "Oh, okay. I know we dealt with that corner."

AUSTIN "Basically what happened was that somebody had an option on it so we went through the zoning and they didn't exercise it and then he didn't want to expend the cost of platting it. It has been two years."

LOPEZ "I think at that time we thought it was probably the most logical thing to finish out the commercial out there across the east to west run."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for commercial uses. Property south and southeast of the site is zoned "SF-6" Single Family Residential and is developed with single family residences; however, both of these properties are in the process of being rezoned to "LC" Limited Commercial and are proposed to be combined with the subject property through replatting. Property to the west is zoned "LC" Limited Commercial and is developed with a Lowe's home improvement center. To the north is a strip commercial center, convenience store, and restaurant on property zoned "LC" Limited Commercial. To the east is undeveloped property zoned "LC" Limited Commercial, which is proposed to be combined with the subject property through replatting. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single Family Residential which accommodates moderate-density, single family residential development and complementary land uses. The site is currently a non-conforming commercial use, indicating that the property is more suitable for commercial development than residential development. Extensive commercial development in the immediate vicinity and the property's location at the intersection of Maple and Ridge make this site undesirable for single family residential use. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the conditions of a Protective Overlay which would limit signage, lighting, and building height and require a six foot high masonry wall along where adjacent to residential property. Redevelopment of the site with commercial uses will require landscaping per the Landscape Ordinance. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" uses; however, commercial zoning was recently approved for the subject property but was not enacted due to failure of the applicant to meet the conditions of approval. If the subject property is combined with properties to the south and east as proposed, the combined commercial properties could develop as a "Convenience Center", which is defined by the Comprehensive Plan as a 2-4 acre site typically develop at arterial intersections. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized by replatting which should require dedication of street right-of-way and access control along Maple and Ridge. Other community facilities should not be adversely impacted.) I move that we recommend to the governing body that the request be approved, subject to the following conditions of a Protective Overlay:

- A. No off-site or portable signs shall be permitted on the property. No building advertising signs shall be permitted along the face of any building facing a property in a residential district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential areas. Light poles shall be limited to a maximum height of 14 feet.
- C. No buildings shall exceed one story in height with a maximum building height of 35 feet.
- D. A 6-foot high masonry wall shall be constructed along any property line where a residential zoning district abuts the property.

MCKAY moved, **MICHAELIS** seconded the motion.

KNEBEL "Just a reminder, Commissioners, that the applicant had requested the additional height on the property."

KROUT "I think you could increase that to 35 feet from 25 feet. It is on the corner."

MCKAY "Okay."

GAROFALO "Is there any other discussion?"

VOTE ON THE MOTION: The motion carried with 9 votes in favor. There was no opposition.

9. **Case No. Z-3360** – James and Andrea Scarpelli (Owners/Applicants); Austin Miller PA c/o Tim Austin, Classic Real Estate c/o Christian Ablah, and In-Site Real Estate c/o Dan Unruh (Agents) request zone change from “SF-6” Single-Family Residential to “LC” Limited Commercial on property described as:

Lot 9, Block G, and the South Half of vacated alley adjacent on the North, Westerlea Village, Sedgwick County, Kansas. Generally located south of Maple and east of Ridge.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from “SF-6” Single Family Residential to “LC” Limited Commercial on a 0.51 acre platted tract located at south of Maple and east of Ridge (321 S. Summitlawn). The site is currently developed with a single-family residence. The applicant proposes to combine the subject property with the two lots immediately to the north, the lot immediately to west, and the lot immediately to the northwest to create an approximately 2 acre parcel for retail development (see attached voluntarily-offered restrictive covenant).

The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for commercial uses. Property south and east of the site is zoned “SF-6” Single Family Residential and is developed with single family residences. Property to the west is zoned “SF-6” Single Family Residential and is developed with a single-family residence; however, this property is in the process of being rezoned to “LC” Limited Commercial and is proposed to be combined with the subject property through replatting. To the north is undeveloped property zoned “LC” Limited Commercial that is proposed to be combined with the subject property through replatting. To the northwest is a non-conforming dry cleaners (Lee’s Cleaners) on property zoned “SF-6” Single Family Residential. The non-conforming property is proposed for rezoning to “LC” Limited Commercial and is proposed to be combined with the subject property through replatting.

To buffer proposed commercial development on the subject property from residences to the south and east, planning staff is recommending that a Protective Overlay be approved to continue the development controls established during the approval of zone changes on the adjacent properties. This Protective Overlay would limit signage, lighting, noise, and building height; prohibit certain uses that are less compatible with residential development; and require a six foot high masonry wall where adjacent to residentially zoned property.

CASE HISTORY: The subject property is in the Westerlea Village Addition, which was platted August 11, 1949. The subject property contains the south half of a vacated alley along the north property line, which was vacated (V-1853) March 1, 1994.

The properties with which the subject property is proposed to be combined have an extensive case history. On April 30, 1974, the Board of City Commissioners denied a zone change request (Z-1619) for “LC” Limited Commercial zoning on the three lots immediately to the north that front Maple. The two lots immediately to north of the subject property were again denied “LC” Limited Commercial zoning (Z-2715) on October 18, 1985, before receiving approval for “LC” Limited Commercial zoning (Z-3074) on December 15, 1992, subject to replatting (King’s Maple Street Addition [S/D 93-60]), vacating the alley to the south (V-1853), and volunteering a restrictive covenant (Cov. 30) prohibiting various uses, requiring a six foot masonry wall along the south property line, and requiring berming and landscaping along Summitlawn.

The lot immediately northwest of the subject property was approved for “LC” Limited Commercial zoning (Z-3244) on September 9, 1997 subject to platting and a Protective Overlay limiting signage, lighting, and building height and requiring a six foot high masonry wall along the south property line. However, this zone change was not enacted and the case was closed due to failure by the applicant to plat the property. This lot is again proposed for “LC” Limited Commercial zoning (Z-3359) and is scheduled for MAPC review on March 16, 2000.

The lot immediately to the west of the subject property was approved for “LC” Limited Commercial zoning (Z-3350) on February 8, 2000, subject to the dedication of street right of way and utility easement and a Protective Overlay prohibiting various uses; limiting signage, lighting, noise, and building height; and requiring a six foot masonry wall where adjacent to residential zoning. At the time this staff report was prepared, the zone change on the lot to the west of the subject property had not been enacted since the street right of way and utility easement had yet to be dedicated.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC” & “SF-6” (“LC” pending)	Undeveloped, Personal Care Service
SOUTH:	“SF-6”	Single Family
EAST:	“SF-6”	Single Family
WEST:	“SF-6” (“LC” pending)	Single Family

PUBLIC SERVICES: The site has frontage to Summitlawn, a paved residential street. If combined with the other properties as proposed, the larger commercial site would have access to Maple and Ridge, both five-lane arterials. Ridge has traffic volumes of approximately 19,000 vehicles per day. The 2030 Transportation Plan estimates the volume for Ridge will increase to approximately 23,000 vehicles per day. Maple has traffic volumes of approximately 20,000 vehicles per day. The 2030

Transportation Plan estimates the volume for Maple will increase to approximately 25,000 vehicles per day. Municipal services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" uses. If the subject property is combined with properties to the north and west as proposed, the combined commercial property could develop as a "Convenience Center", which is defined by the Comprehensive Plan as a 2-4 acre site typically anchored by a mini-market with several other small-scale tenants that typically develop at arterial intersections. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property would comply with these locational guidelines if combined the other properties to the north and west and if subjected to the recommended development controls through a Protective Overlay.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting under the conditions of the voluntarily-offered restrictive covenant and the following conditions of a Protective Overlay:

- A. No off-site or portable signs shall be permitted on the property. No building advertising signs shall be permitted along the face of any building facing a property in a residential district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential areas. Light poles shall be limited to a maximum height of 14 feet.
- C. Outdoor speakers and sound amplification systems shall not be permitted.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed along any property line where a residential zoning district abuts the property.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment; and vehicle repair.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for commercial uses. Property south and east of the site is zoned "SF-6" Single Family Residential and is developed with single family residences. Property to the west is zoned "SF-6" Single Family Residential and is developed with a single-family residence; however, this property is in the process of being rezoned to "LC" Limited Commercial and is proposed to be combined with the subject property through replatting. To the north is undeveloped property zoned "LC" Limited Commercial that is proposed to be combined with the subject property through replatting. To the northwest is a non-conforming dry cleaners (Lee's Cleaners) on property zoned "SF-6" Single Family Residential. The non-conforming property is proposed for rezoning to "LC" Limited Commercial and is proposed to be combined with the subject property through replatting.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single Family Residential which accommodates moderate-density, single family residential development and complementary land uses. The site is currently developed with a single-family residence, and the site is apparently suitable for continued single family residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the conditions of a Protective Overlay which would limit signage, lighting, noise and building height; prohibit certain uses that are less compatible with residential development; and require a six foot high masonry wall where adjacent to residentially zoned property. Redevelopment of the site with commercial uses will require landscaping per the Landscape Ordinance.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" uses. If the subject property is combined with properties to the north and west as proposed, the combined commercial property could develop as a "Convenience Center", which is defined by the Comprehensive Plan as a 2-4 acre site typically anchored by a mini-market with several other small-scale tenants that typically develop at arterial intersections. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property would comply with these locational guidelines if combined the other properties to the north and west and if subjected to the recommended development controls through a Protective Overlay.
5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized by the voluntarily-offered restrictive covenant which requires replatting with the properties to the north and west so that access to the property is from Maple and Ridge. Other community facilities should not be adversely impacted.

GAROFALO "Are there any questions of Scott?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The surrounding area is characterized by a mixture of residential uses, commercial uses, and undeveloped property zoned for commercial uses. Property south and east of the site is zoned "SF-6" Single Family Residential and is developed with single family residences. Property to the west is zoned "SF-6" Single Family Residential and is developed with a single-family residence; however, this property is in the process of being rezoned to "LC" Limited Commercial and is proposed to be combined with the subject property through replatting. To the north is undeveloped property zoned "LC" Limited Commercial that is proposed to be combined with the subject property through replatting. To the northwest is a non-conforming dry cleaners (Lee's Cleaners) on property zoned "SF-6" Single Family Residential. The non-conforming property is proposed for rezoning to "LC" Limited Commercial and is proposed to be combined with the subject property through replatting. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single Family Residential which accommodates moderate-density, single family residential development and complementary land uses. The site is currently developed with a single-family residence, and the site is apparently suitable for continued single family residential use. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the conditions of a Protective Overlay which would limit signage, lighting, noise and building height; prohibit certain uses that are less compatible with residential development; and require a six foot high masonry wall where adjacent to residentially zoned property. Redevelopment of the site with commercial uses will require landscaping per the Landscape Ordinance. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" uses. If the subject property is combined with properties to the north and west as proposed, the combined commercial property could develop as a "Convenience Center", which is defined by the Comprehensive Plan as a 2-4 acre site typically anchored by a mini-market with several other small-scale tenants that typically develop at arterial intersections. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property would comply with these locational guidelines if combined the other properties to the north and west and if subjected to the recommended development controls through a Protective Overlay. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized by the voluntarily-offered restrictive covenant which requires replatting with the properties to the north and west so that access to the property is from Maple and Ridge. Other community facilities should not be adversely impacted.) I move that we recommend to the governing body that the request be approved, subject to staff recommendations and the additional provisions of a Protective Overlay.

MCKAY moved, **MICHAELIS** seconded the motion.

KROUT "There was some discussion the applicant had on the Summitlawn side about having the landscape strip of at least 10 feet and having the wall on the west side of that strip along Summitlawn."

KNEBEL "The other issue was the total prohibition of sound amplification systems."

KROUT "Right. You would need to limit item C on the prohibition of sound amplification to the south 100 feet of that lot. Is your intent to have a 10-foot strip along Summitlawn?"

MCKAY "According to this, they have a 10-foot strip, and you said they were going to move the fence in and put the landscaping on the outside of the fence? Is that what you said?"

KROUT "Yes, landscaping on the Summitlawn side of the fence."

MCKAY "I just feel like they need to have a 20-foot buffer there with a fence. They can put it on the inside or outside basically, I don't really have a feeling for that."

KNEBEL "Along the south."

MCKAY "Yeah, along the south."

WHEELER "What about the east?"

MCKAY "You have the street to buffer, to go across, which is another 70 feet. This way you don't have on the south. You are abutting up to it on the south. That is why I am saying 20 feet. The fence plus a 20-foot landscape buffer."

KNEBEL "But no 10 feet on the east?"

MCKAY "I am going to amend the motion. Now, if somebody wants to say that it has to be on the north side or the south side of the fence and where the fence is located, I don't have a problem with it either way."

KROUT "I just suggest that you do the 20-foot buffer along Summitlawn, too. I say that because it is facing a single-family home and a row of homes along Summitlawn. Those homes have at least 25 foot front lawns and in order to have some compatibility. This plan even shows 88 parking spaces, 56 required, so there is a lot more parking there than they will ever need."

MCKAY "Okay, I don't have a problem with 20 feet."

KROUT "Okay."

KNEBEL "And still the sound within the south 100 feet?"

MCKAY "Yes, and the sound requirement."

GAROFALO "So it is 20 feet on the..."

MCKAY "Twenty feet on the Summitlawn side and 20 feet on the south property line."

AMENDED MOTION: I move that we recommend to the governing body that the request be approved, subject to the following:

- A. No off-site or portable signs shall be permitted on the property. No building advertising signs shall be permitted along the face of any building facing a property in a residential district.
- B. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from nearby residential areas. Light poles shall be limited to a maximum height of 14 feet.
- C. Outdoor speakers and sound amplification systems shall not be permitted within the south 100 feet of the property.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed parallel to the east and south property lines and located 20 feet west and north of the east and south property lines, respectively. A 20 foot landscaped buffer shall be provided adjacent to the east and south property lines on the east and south side of the masonry wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; group home; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; restaurant with drive-in or drive-thru facilities; service station; tavern and drinking establishment; and vehicle repair.

MCKAY moved, **MICHAELIS** seconded the motion.

GAROFALO "All right. Any more discussion?"

VOTE ON THE MOTION: The motion carried with 6 votes in favor (McKay, Michaelis, Wheeler, Warren, Warner, and Lopez), and 2 in opposition (Garofalo and Platt).

Garofalo left the room, Lopez assumed the Chair.

10. **CU-567** – Southwest Baptist Church, c/o Pastor David Hill (owner) requests Conditional Use to allow daycare, general on property described as:

Lot 1, Southwest Baptist church Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located on the north side of 31st Street approximately 500 feet east of Seneca.

DONNA GOLTRY, Planning Staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting that a 2.0-acre tract of property zoned "SF-6" Single Family be approved for a "Conditional Use" to operate a "daycare, general," program within the existing church building. The application area is located on the north side of 31st Street South approximately 500 feet east of Seneca.

The Unified Zoning Code defines "daycare, general" as "an establishment that provides care, protection, and supervision for more than 10 individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees."

Southwest Baptist Church is seeking to operate a daycare program that would serve 24 children between the ages of infant and five years initially, operating between the hours of 6:00 a.m. and 6:00 p.m. The daycare would be housed within the northern portion of its existing facilities. The playground area would be located at the rear of the building, along the church's

north property line. The applicant would need to screen and provide a landscape buffer along this property line in order to comply with licensing regulations for daycare and the screening requirements in the Uniform Zoning Code.

In the surrounding area, there are commercial buildings to the west and south of the church. There is also a condo development to the southeast. There are residences located on deep lots (330 feet in depth) in the area to the north and east of the church. The church owns the first lot to the east of its current parking lot, thus giving it a buffer from the remaining residences on 31st Street South, but also providing a potential expansion area.

The church's building is approximately 25 feet from its north property line, which appears to meet UZC compatibility requirements. However, the residences to the north of the church property do not have any structures located near the property line due to the depth of the lots.

CASE HISTORY: The property was platted as Southwest Baptist Church Addition in 1968.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6" Single-Family	Single-family residences
EAST: "SF-6" Single-Family	Single-family residences
SOUTH: "LC" Limited Commercial;	Retail, offices
"NR" Neighborhood Retail	
WEST: "LC" Limited Commercial	Retail

PUBLIC SERVICES: The site has access to 31st Street South. Traffic volumes on 31st westbound to Seneca were 12,639 ADTs. Projected traffic volumes for 2020 were projected to decrease to 10,646 ADTs. Public water and sewer service is available and already serves the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the Comprehensive Plan identifies this property as "low density residential." The Plan considers schools, churches, and other similar uses as appropriate in low-density areas. The "Area Treatment Classification" shows the area for "revitalization," an area with some decline, but good market and development opportunities. This potential is verified by the current construction of a new Walgreens on the northeast corner of 31st and Seneca and is supported by this application's desire to offer daycare services to the neighborhood.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

4. The daycare, general, facility shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
5. The daycare shall comply with all applicable building codes of the City of Wichita and with all licensing requirements of the Wichita-Sedgwick County Health Department.
6. The maximum number of children to be accommodated at any one time shall not exceed the licensed capacity, as determined by the appropriate licensing agencies.
7. A fenced playground shall be provided as required by the Health Department licensing regulations. Outdoor play by children under the supervision of the daycare facility shall be limited to the hours between 7:30 a.m. and 6:30 p.m.
8. A six-to-eight foot tall screening fence, constructed to prevent the passage of light and debris, shall be erected along the north property line. Said fence shall be constructed of either brick, stone, architectural tile, masonry, wood or other similar material (not including woven wire). A buffer of one tree for every 40 feet shall be provided along the playground.
9. On-site parking shall be provided for the daycare as required by the UZC, which currently is one space for each teacher and employee, plus one space for each vehicle used in the operation of the center, plus one space for each ten children beyond the first twelve.
10. Signs for the daycare shall be limited to those permitted in the "SF-6" Single-Family Residential District.
11. A loading area for the daycare facility shall be provided on-site as required by code.
12. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning and development of the property to the north and east is "SF-6" Single-Family. The property to the west and south is "LC" Limited Commercial and "NR" Neighborhood Retail, with retail, office, and some multi-family use to the southeast.

2. The suitability of the subject property for the uses to which it has been restricted: The property has been used as a church and will continue to be used for this purpose. The "Conditional Use" would allow operation of a daycare facility during the weekdays to better utilize the facility, plus offer services to the neighborhood.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The only potential detrimental effect might be the outdoor play close to the rear property line of the residences to the north. This effect should be mitigated by screening and buffering, and by the depth of the residential lots.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is in conformance with the "Wichita Land Use Guide," which identifies the area for "low density residential." It is compatible with the "Area Treatment Classification" for "revitalization."
5. Impact of the proposed development on community facilities: The projected impact on traffic is minimal due to the low volume of potential traffic. Water and sewer service is adequate to handle the small demand generated by the "Conditional Use."

GOLTRY "This is for a day care located inside their building on the north and rear part of the building with the playground area behind it. I have had only calls that were not concerned with the day care at all. Pastor Hill and the children's director is with us here today to talk about the application. He has said he is in support of staff comments. I don't know that there is anyone in the audience here to speak about this."

LOPEZ "Is there anybody in the audience to speak on this item, in favor or in opposition? There is nobody. Applicant or agent."

KROUT "Is there anything you need to say?"

PASTOR DAVID HILL (From the audience) "No."

LOPEZ "No? Okay, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The zoning and development of the property to the north and east is "SF-6" Single-Family. The property to the west and south is "LC" Limited Commercial and "NR" Neighborhood Retail, with retail, office, and some multi-family use to the southeast. The suitability of the subject property for the uses to which it has been restricted: The property has been used as a church and will continue to be used for this purpose. The "Conditional Use" would allow operation of a daycare facility during the weekdays to better utilize the facility, plus offer services to the neighborhood. Extent to which removal of the restrictions will detrimentally affect nearby property: The only potential detrimental effect might be the outdoor play close to the rear property line of the residences to the north. This effect should be mitigated by screening and buffering, and by the depth of the residential lots. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is in conformance with the "Wichita Land Use Guide," which identifies the area for "low density residential." It is compatible with the "Area Treatment Classification" for "revitalization." Impact of the proposed development on community facilities: The projected impact on traffic is minimal due to the low volume of potential traffic. Water and sewer service is adequate to handle the small demand generated by the "Conditional Use.") I move that we recommend to the governing body that the request be approved, subject to the following:

1. The daycare, general, facility shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
2. The daycare shall comply with all applicable building codes of the City of Wichita and with all licensing requirements of the Wichita-Sedgwick County Health Department.
3. The maximum number of children to be accommodated at any one time shall not exceed the licensed capacity, as determined by the appropriate licensing agencies.
4. A fenced playground shall be provided as required by the Health Department licensing regulations. Outdoor play by children under the supervision of the daycare facility shall be limited to the hours between 7:30 a.m. and 6:30 p.m.
5. A six-to-eight foot tall screening fence, constructed to prevent the passage of light and debris, shall be erected along the north property line. Said fence shall be constructed of either brick, stone, architectural tile, masonry, wood or other similar material (not including woven wire). A buffer of one tree for every 40 feet shall be provided along the playground.

6. On-site parking shall be provided for the daycare as required by the UZC, which currently is one space for each teacher and employee, plus one space for each vehicle used in the operation of the center, plus one space for each ten children beyond the first twelve.
7. Signs for the daycare shall be limited to those permitted in the "SF-6" Single-Family Residential District.
8. A loading area for the daycare facility shall be provided on-site as required by code.
9. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

MICHAELIS moved, **WARNER** seconded the motion.

LOPEZ "Is there any discussion on the motion?"

VOTE ON THE MOTION: The motion carried with 7 votes in favor (Platt, Lopez, Michaelis, Warren, Wheeler, Warner and McKay). Garofalo was present but out of the room. Osborne-Howes, Johnson, Marnell, Barfield, Hentzen, and Carraher were not present.

11. **Z-3362** – Larned E. Smith (Applicant); Baughman Company PA c/o Russ Ewy (Agent) request zone change from "LC" Limited Commercial to "GC" General Commercial on property described as:

Lot 77 & the West Half of Lot 78, Linwood Acres, except that part taken for street Sedgwick County, Kansas. Generally located north of Kellogg and east of Greenwich (11824 E. Kellogg).

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "LC" Limited Commercial to "GC" General Commercial on a 1.08 acre platted tract located north of Kellogg and east of Greenwich (11824 E. Kellogg). The applicant proposes to redevelop a vacant single-family residential site for the outdoor display and sale of manufactured homes. The proposal is an expansion of the applicant's existing business (Carnival Mobile Homes) on a separate site approximately 250 feet east of the existing business.

The surrounding area is on the urban fringe of Wichita along the Kellogg corridor and is characterized by a mixture of vacant commercial land, developed commercial uses, manufactured home parks, and vacant single family residences. Property west of the site is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with retail businesses, vehicle sales, and manufactured home sales. Property north of the site is zoned "LC" Limited Commercial and is developed with a non-conforming manufactured home park and vacant single family residences. Property east of the site is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with a vacant single-family residence, retail businesses, construction storage, and manufactured home sales. Property south of the site is zoned "GC" General Commercial and is undeveloped.

Redevelopment of the site will be subject to the Landscape Ordinance, which will require a landscaped street yard and parking lot screening and landscaping along the Kellogg frontage. Screening and landscape buffers along the side and rear yards will *not* be required since adjacent residential uses are on property zoned "LC" Limited Commercial. Lighting and noise impacts on surrounding properties will be mitigated by the light standards and compatibility noise standards of the Unified Zoning Code.

CASE HISTORY: The site is in the Linwood Acres Addition, which was platted October 7, 1929. Due to the age of this plat, modern utility easements and street rights-of-way are not provided; therefore, Planning staff recommends that approval of the zoning change be subject to the condition of replatting.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"	Manufactured Home Park, Single-Family
SOUTH: "GC"	Vacant
EAST: "LC" & "GC"	Single-Family, General Retail, Outdoor Storage
WEST: "LC" & "GC"	General Retail, Outdoor Vehicle and Equipment Sales, Outdoor Storage

PUBLIC SERVICES: The site has frontage to Kellogg Drive, a two-lane access road to Kellogg. Current traffic volumes on Kellogg are approximately 22,000 vehicles per day. The 2030 Transportation Plan estimates the volumes will increase to approximately 52,000 vehicles per day and that Kellogg will need to be improved to a six-lane freeway. The site is currently served with municipal water and sewer.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and

other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also indicate that non-retail uses should be guided to segments of Kellogg where these uses already exist.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is on the urban fringe of Wichita along the Kellogg corridor and is characterized by a mixture of vacant commercial land, developed commercial uses, manufactured home parks, and vacant single family residences. Property west of the site is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with retail businesses, vehicle sales, and manufactured home sales. Property north of the site is zoned "LC" Limited Commercial and is developed with a manufactured home park and vacant single family residences. Property east of the site is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with a vacant single-family residence, retail businesses, construction storage, and manufactured home sales. Property south of the site is zoned "GC" General Commercial and is undeveloped.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial which accommodates retail, commercial, office and other complementary land uses. The site could be developed with such uses; however, the predominate businesses in the area are vehicle sales and manufactured home sales, which are most suitably developed in the "GC" General Commercial district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should sufficiently limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also indicate that non-retail uses should be guided to segments of Kellogg where these uses already exist.
5. Impact of the proposed development on community facilities: Replatting should ensure that sufficient street right-of-way is provided along the Kellogg frontage for the future expansion of Kellogg to a six-lane freeway. Other community facilities should not be adversely impacted.

KNEBEL "I need to clarify an item that was in the staff report. The staff report indicates that the applicant is requesting to expand an existing business for the sale of manufactured homes. That is just one of the options that the owner is interested in. The owner is also considering the sale of vehicles, recreational vehicles or other uses that are permitted in General Commercial. That doesn't change the recommendation. As you can see, there is plenty of General Commercial along Kellogg in this area, and the uses are sales of Manufactured Homes and cars primarily."

LOPEZ "Are there any questions of staff? Applicant or agent."

RUSS EWY "I am with the Baughman Company, agent for the applicant. We are in agreement with staff comments and would just point out there is a lot of undeveloped General Commercial out at this stretch of Kellogg; however, if you notice, most of it is contained within DP-196 south of Kellogg. I would have to say that some of the traffic improvements that were made a requirement of that particular zoning case has probably prohibited the full-scale development of that particular property."

Like I said, our applicant owns the property in 'GC' along Ellison as well as the subject property, and has requested this zone change in order to sell the property for the uses that Scott mentioned. I would be happy to answer any questions you may have."

LOPEZ "Are there any questions of the agent? Is there anybody to speak in favor or against this application."

PAT KUFAHL "I own the property immediately west of the proposed zone change. I bought that property six years ago, I spent a great deal of money removing an old building formerly referred to as the 'Cockroach Motel'. I cleaned out the trees, cleaned up the lot, built a pretty nice building, and I operate and own Economy Engravers."

I realize that there are a lot of mobile home sales up and down Kellogg, a pretty sleazy looking used car dealer just to the west, but I would think that with the development that is going on further east that you talked about in earlier hearings, that that area is really prime area for development, and I would like to see retail go in there. I don't want to be walled up by another trailer home or mobile home outlet.

The lot is very, very small. It is not large enough to accommodate the in and out because I have noticed the problem down at the other end of the block there where the applicant has an operation there now. If he would take the time to demolish the old house that presently vacant and clean up the lot, I would think he would be able to get a lot more return on the investment than allowing more mobile home operations to infiltrate the area out there. I am just concerned about how they are proposing to use

that access road to allow the removal and placement of the mobile homes. They are very long, lengthy things and they are very awkward to move in and out. There is just not enough access there. I am a little concerned because my building is in the Code within 5 feet of the property line. How they are going to be able to move these gigantic mobile homes in and out without running into my building and invading my property. That is all I have to say. I am just very much opposed to it. While I think the house does need to come down, and anything would be an improvement, I am not real pleased with the applicant's plan for the property.

Dick's Sporting Goods has bought the property just east of that lot and they are putting in a shooting range. They keep a nice, clean operation there. I don't think he wants to be covered by mobile homes than I do, although he is not here today. Maybe you have had some correspondence with him, I don't know. Anyway, that is my feeling. Thank you for your time. I am in a hurry to get home, too."

LOPEZ "Are there any questions? I have one. What is immediately west of you, another mobile home park?"

KUFAHL "Oh, this Larnard Smith that is the applicant has this property also, and he has a lot of mobile homes there as well."

LOPEZ "Directly west of you?"

KUFAHL "Directly west of me is Gilpin Feed Store. There are lots of big old trucks pulling in there, too. And then, of course, the car lot....I have forgotten the name of that."

KNEBEL "Do you want to see the west view? Here is the aerial."

KUFAHL "This is the house. It is now being occupied by probably 10 cats and a raccoon."

KNEBEL "There is her business in the foreground."

KUFAHL "Yes, that is my building. I followed the Code to the letter. I even put bushes there that the City required."

KNEBEL "I am standing immediately in front of the subject property on the street."

LOPEZ "What is to the west?"

KNEBEL "Further west is a car sales lot and then a manufactured home sales lot."

LOPEZ "Ma'am, you understand that staff stated that that is not particularly going to be designated for manufactured homes?"

KUFAHL "Well, either way, it is not large enough to accommodate homes or a car lot in my opinion. A nice retail outlet would be preferable."

LOPEZ "Are there any other questions? Thank you. Is there anybody to speak in favor? In opposition? The agent has 2 minutes for rebuttal."

EWY "I will be brief. Obviously this area, the uses that we are proposing developing with General Commercial is quiet in nature, in keeping with what this block facing Kellogg is accustomed to. The staff report states that quite clearly that it is in conformance with adopted plans and policies. I think by virtue of the other car lot being on a slightly smaller lot that we would be able to accommodate outdoor display sales of the slightly larger magnitude. I would be more than happy to answer any questions that you may have."

Garofalo returned to the meeting.

LOPEZ "Okay. I will bring it back to the Commission."

WHEELER "Marvin, on the storage, are there any typical setback requirements on that in terms of how far out they can set displays of outdoor storage?"

KROUT "No. Not if it is display. If it is storage, then it has to be screened from the street, but this is going to be considered display. It is available and open to view, then it is not a structure, not a building; it is temporary, so it can be placed up to the property line and display is specifically exempted in the landscape requirements from having to have the shrubs screened like you had along your parking lot. They will have to have some landscaped area, maybe 10 feet or so and it will have to have trees about every 50 feet. That is the requirement for any development along a major street, and the frontage road will be considered a major street. But they won't have to put any shrub screens or screen it in any other way, and it won't be limited to 25 or 35 feet back like a building would."

WARNER "Is that old house on the lot next door?"

KUFAHL "Yes."

WARNER "Are they going to tear that down?"

KUFAHL "The owner called me and intimated that he was going to tear it down."

EWY "I am sure that they will tear it down in prelude to pulling building permits to do this outdoor sales lot. And I might add that then obviously the development will meet all modern code. As a matter of fact, we are replatting it, so access would be able to be addressed at that time as well as setbacks."

LOPEZ "Are there any other questions of the applicant?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is on the urban fringe of Wichita along the Kellogg corridor and is characterized by a mixture of vacant commercial land, developed commercial uses, manufactured home parks, and vacant single family residences. Property west of the site is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with retail businesses, vehicle sales, and manufactured home sales. Property north of the site is zoned "LC" Limited Commercial and is developed with a manufactured home park and vacant single family residences. Property east of the site is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with a vacant single-family residence, retail businesses, construction storage, and manufactured home sales. Property south of the site is zoned "GC" General Commercial and is undeveloped. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial which accommodates retail, commercial, office and other complementary land uses. The site could be developed with such uses; however, the predominate businesses in the area are vehicle sales and manufactured home sales, which are most suitably developed in the "GC" General Commercial district. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should sufficiently limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also indicate that non-retail uses should be guided to segments of Kellogg where these uses already exist. Impact of the proposed development on community facilities: Replatting should ensure that sufficient street right-of-way is provided along the Kellogg frontage for the future expansion of Kellogg to a six-lane freeway. Other community facilities should not be adversely impacted.) I move that we recommend to the governing body that the request be approved, subject to replatting within one year.

MCKAY moved, **PLATT** seconded the motion, and it carried unanimously (8-0).

WHEELER "I would like to make a recommendation. When it does come up for platting, that they take into consideration the abutting properties."

KROUT "This has to go to the City Council. It will go about a month from now. You won't be able to speak to the City Council, but you can go to the meeting."

WHEELER "I would also recommend that when it goes to platting that they look at the setbacks and the blocking of the accessibility of the abutting property owners."

KROUT (To Ms. Kufahl) "And also, if it is approved, would you like to be notified of the Subdivision plat?"

KUFAHL "Yes."

GAROFALO "Okay. Are there any other matters to come before this board? I guess not."

KROUT "Thank you all for sticking it out."

The meeting was informally adjourned at 6:45 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify

that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2000.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)